From: "Edward Wilds" <edward.wilds@po.state.ct.us>
To: TWFN_DO.twf1_po(PHL)
Date: Fri, Sep 17, 1999 1:29 PM
Subject: Ct. Statutes

Paul:
Attached are Connecticut's State Statutes regarding radioactive material, DEP proposed changes that are being forwarded to the Connecticut Office of Policy and Management, and a draft letter of intent. Please have your staff review and let me know if there are any concerns or suggestions.

Ed Wilds
Connecticut

September 23, 1999

Greta Joy Dicus
Chairman
U.S. Nuclear Regulatory Commission
1155 Rockville Turnpike
Rockville, Maryland 20552

Dear Chairman Dicus:

The role of the U.S. Nuclear Regulatory Commission in the State of Connecticut has been significant over the past several decades. Connecticut has many groups and individuals that use and benefit from the uses of radioactive material.

While such use benefits all of us, radiation safety has always been a prime concern. Because of this, I feel the State of Connecticut should play a vital role in the radiation protection of its people. To that end, it is our intent to pursue the possibility of an agreement with the U.S. Nuclear Regulatory Commission for transfer of authority for the control of radioactive material to the State of Connecticut pursuant to Section 274b of the Atomic Energy Act of 1954, as amended.

At this time, on behalf of the State of Connecticut, I request that the U.S. Nuclear Regulatory Commission provide the necessary technical assistance and training to the Department of Environmental Protection Division of Radiation staff to ensure the State is in the position to assume the responsibility for these transferred authorities. Additionally, assistance is requested for the review of our statutory authority, revised regulations, enabling legislation, and an overall review of the Division of Radiation. With the aid of the Commission, I am sure that the authority for the regulation of radioactive materials will pass quickly to the Department of Environmental Protection's Division of Radiation.

Dr. Edward L. Wilds, Jr., Director of the Department of Environmental Protection Bureau of Air Management's Division of Radiation, will be the direct contact for the State of Connecticut with the U.S. Nuclear Regulatory Commission.

Sincerely,

JOHN G. ROWLAND
Governor

cc: Arthur J. Rocque, Jr., Commissioner
Department of Environmental Protection

Jane K. Stahl, Assistant Commissioner
Department of Environmental Protection

Carmine DiBattista, Bureau Chief, Bureau of Air Management
Department of Environmental Protection

CHAPTER 446*

NUCLEAR ENERGY

*See Sec. 28-31 re nuclear safety emergency preparedness fund and program.

Sec. 22a-135. (Formerly Sec. 19-408a). Duties of department of environmental protection re nuclear energy and radiation. Fees. Reporting of nuclear incidents. (a) The department of environmental protection shall: (1) Review the plans for and operation of safety programs at nuclear plants; (2) make recommendations to the Nuclear Regulatory Commission concerning third-party inspection of components and construction of nuclear plants for the purpose of improving quality assurance plans and programs; (3) require the immediate reporting to the commissioner of environmental protection or his designee, which may be another state agency, by licensees of the United States Nuclear Regulatory Commission which operate nuclear power generating facilities in this state as soon as the licensee has knowledge or, in the exercise of reasonable care should have had knowledge of (A) any release of radiation which is unplanned, unmonitored or which exceeds design standards and specifications established by the Nuclear Regulatory Commission, and (B) any occurrence, incident or other abnormal circumstance, unless it is immediately evident that such occurrence, incident or circumstance is not required to be reported within twenty-four hours or sooner to the Nuclear Regulatory Commission; (4) monitor radiation originating from nuclear plants and perform tests to detect any buildup of radioactivity in the soil, water, plants or animals of the state; (5) review the training and education of workers at nuclear plants to insure awareness of the possible risks of cancer and future genetic effects; (6) represent the interests of the state in federal and state regulatory hearings and other administrative actions concerning nuclear plants which affect the state; (7) intervene in federal proceedings and petition federal agencies for revision of existing regulations where appropriate; (8) conduct periodic on-site evaluations of the effectiveness and enforcement of federal regulations for the packaging and transportation of radioactive material; (9) study plans for, and hazards inherent in the decommissioning of Connecticut nuclear plants including the possible future use of land now in use by a nuclear power facility; (10) study the storage problems posed by high level wastes; (11) study and, in cooperation with the state police, monitor the security of nuclear plants to assure that the dangers from sabotage and terrorism are minimized; (12) monitor sources of ionizing radiation, microwave radiation and radioactive materials within the state; (13) review the state emergency plan for radiation safety and (14) investigate out-of-state potential radiological hazards which may have a significant adverse effect upon the health or safety of the people of the state. The commissioner shall charge each of the four nuclear powered commercial electric power generating plants an annual fee of forty thousand dollars for monitoring radiation released from such plants. Nuclear fuels radiation facilities shall pay an annual fee of ten thousand dollars for monitoring such plants. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to prescribe the amount of the fees required pursuant to this section. Upon the adoption of such regulations, the fees required by this section shall be as prescribed in such regulations.

(b) In addition to the reporting required of a licensee pursuant to the provisions of subdivision (3) of subsection (a), the department may require the reporting immediately or within such time period as the department may designate of any additional occurrence, incident or other abnormal circumstance which is not required to be reported within twenty-four hours or sooner to the Nuclear Regulatory Commission. The department shall adopt regulations, in accordance with chapter 54, to carry out the provisions of this subsection.

(P.A. 78-214, S. 1, 4; P.A. 80-351, S. 1, 5; P.A. 90-231, S. 4, 28; P.A. 91-369, S. 22, 36.)
History: P.A. 80-351 replaced previous Subdiv. (3) in Subsec. (a) which had required immediate report to department "by

nuclear facilities of any incidents required to be reported to the Nuclear Regulatory Commission" with more specific provisions and added Subsec. (b) re additional reports which may be required; Sec. 19-408a transferred to Sec. 22a-135 in 1981; P.A. 90-231 amended Subsec. (a) to require facilities to pay annual fees and provided that on and after July 1, 1993, the fees shall be prescribed by regulations; P.A. 91-369 amended Subsec. (a) to restate commissioner's authority to adopt regulations setting the fees required by this section.

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

Sec. 22a-136. Moratorium on construction of nuclear power facilities. No construction shall commence on a fifth nuclear power facility until the commissioner of environmental protection finds that the United States Government, through its authorized agency, has identified and approved a demonstrable technology or means for the disposal of high level nuclear waste. As used in this section, "high level nuclear waste" means those aqueous wastes resulting from the operation of the first cycle of the solvent extraction system or equivalent and the concentrated wastes of the subsequent extraction cycles or equivalent in a facility for reprocessing irradiated reactor fuel and shall include spent fuel assemblies prior to fuel reprocessing.

(P.A. 79-487.)

Sec. 22a-137. Burial of nuclear radioactive waste regulated. Certain low-level waste exempted. (a) No individual, partnership, corporation or association, or state or local government or political subdivision or instrumentality thereof shall bury any nuclear radioactive waste within this state unless the general assembly finds that the burial of such waste will not have a significant adverse effect upon the public health, safety and welfare of the state and approves, by special act, the burial of such waste. An application to bury such waste shall be submitted to the speaker of the house of representatives and the president pro tempore of the senate and shall be referred by them to the joint standing committee of the general assembly having cognizance of matters relating to the environment.

(b) Upon receipt of an application to bury nuclear radioactive waste, the committee shall notify the commissioner of environmental protection and the commissioner of public health and addiction services and said commissioners shall submit to said committee, within forty-five days, an evaluation of the impact of the proposed burial upon the state.

(c) Within sixty days of receipt of an application the committee shall hold a public hearing. Notice of the hearing shall be published for two consecutive weeks in a newspaper having general circulation in the county in which the proposed burial site is to be located, the last publication to be at least two weeks prior to the date of the hearing. Not less than thirty days prior to such public hearing, the committee shall give notice of such hearing by certified mail, return receipt requested, to the legislative body and the regional planning agency for the municipality in which the proposed burial site is to be located and for each contiguous municipality.

(d) The committee shall report to the general assembly its recommendation for approval or disapproval of the proposed burial and burial site. A recommendation for approval of the proposed burial and burial site shall include findings that such burial and burial site: (1) Will not have a significant adverse effect upon the health, safety, air or water quality, or the economy of the affected region and (2) will not significantly interfere with the orderly development of such region with due consideration having been given to any recommendations of the regional planning agencies and the municipal legislative bodies.

(e) No state officer, agency or department shall approve or license any proposed burial or burial site or obtain any such approval or license from any state or federal agency or board unless such proposed burial and burial site have been approved by special act of the general assembly.

(f) The provisions of this section shall not apply to the disposal of low-level radioactive waste in accordance with the provisions of sections 22a-161 to 22a-165f, inclusive.

(P.A. 79-488, S. 1-3; P.A. 91-337, S. 3, 15; P.A. 93-381, S. 9, 39.)

History: P.A. 91-337 replaced existing Subsec. (f) re burial of certain waste with provisions re burial of low-level radioactive waste in accordance with the provisions of secs. 22a-161 to 22a-165f, inclusive; P.A. 93-381 authorized substitution of commissioner and department of public health and addiction services for commissioner and department of health services, effective July 1, 1993.

Secs. 22a-138 to 22a-147. Reserved for future use.

CHAPTER 446a

RADIATION AND RADIOACTIVE MATERIALS

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 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 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 environmental protection on forms provided for the purpose and shall reregister annually in January. Such registration shall be accompanied by a fee of one 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. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to prescribe the amount of the fees required pursuant to this section. Upon the adoption of such regulations, the fees required by this section shall be as prescribed in such regulations.

(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.)

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 amended Subdiv. (2) of Subsec. (c) by deleting Subpars. (A) re exemption from registration of devices emitting x-rays for diagnostic or therapeutic purposes and relettered the remaining Subpars. accordingly; P.A. 90-231 amended Subsec. (c) to require a registration fee of one hundred dollars 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.

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

Subsec. (c)(2)(A):

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

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 environmental protection.

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

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.

Sec. 22a-150. (Formerly Sec. 19-25a). Registration of x-ray devices. The commissioner of environmental protection shall, by regulation, require registration of devices emitting x-rays which are used for diagnostic or therapeutic purposes by or under the supervision of a person or persons licensed to practice medicine, surgery, osteopathy, chiropractic, natureopathy, dentistry, podiatry or veterinary medicine and surgery, as authorized by law. The commissioner shall charge a registration fee of seventy-five dollars biennially for each such device, except that hospitals operated by the state or a municipality shall be exempt from payment of the fee. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to prescribe the amount of the fees required pursuant to this section. Upon the adoption of such regulations, the fees required by this section shall be as prescribed in such regulations.

(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.)

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 fifteen dollars per device, rather than at "not more than fifteen dollars ... for one such device, plus not more than five dollars ... 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 fifteen to thirty dollars, effective July 1, 198 1, and applicable to registrations occurring or or after July 1, 198 1; Sec. 19-25a transferred to Sec. 22a-1 50 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 seventy-five dollars 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.

See Sec. 19a-63 re commissioner of health services' responsibilities for regulating personnel operating diagnostic x-ray systems and procedures for the utilization of x-ray equipment.

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

Sec. 22a-151. (Formerly Sec. 19-25b). Ionizing radiation: Definitions. As used in section 22a- 15 1 to 22a- 15 8, 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 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 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, 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 I 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.)

History: 1971 act replaced public health council with commissioner of environmental protection in Subdiv a. (2) and (3); Sec 19-25b transferred to Sec. 22a-151 in 1983.

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.

Sec. 22a-153. (Formerly Sec. 19-25d). Duties of commissioner of environmental protection. Consultants to governor. (a) The commissioner of 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.)

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.
See Sec. 19a-63 re commissioner of health services' responsibilities for regulating personnel operating diagnostic x-ray systems and procedures for the utilization of x-ray equipment.

Sec. 22a-154. (Formerly Sec. 19-25e). Licensing of sources of ionizing radiation. (a)The commissioner of 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.)
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

Sec. 22a-155. (Formerly Sec. 19-25f). Hearings. Judicial review. (a) In any proceeding under sections 22a-151 to 22a-158, inclusive, or any other applicable statute (1) for the issuance or modification of rules and regulations relating to control of sources of ionizing radiation; or (2) for granting, suspending, revoking or amending any license; or (3) for determining compliance with or granting exceptions from rules and regulations of the commissioner of environmental protection, the commissioner or his representative designated in writing shall hold a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. Thirty days published notice shall be given of any such hearing.

(b) Any final order entered in any proceeding under subsection (a) above shall be subject to judicial review by the superior court in the manner prescribed in section 25-36.

(1967, P.A. 550, S. 5; 1971, P.A. 870, S. 48; 872, S. 419; P.A. 76-436, S. 375, 681.)
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.

Sec. 22a-156. (Formerly Sec. 19-25g). Injunctions against violations. Orders. Whenever, in the judgment of the commissioner of environmental protection, any person has engaged in or is about to engage in any acts or practices which constitute, or will constitute, a violation of any provision of sections 22a-151 to 22a-158, inclusive, or any other applicable statute, or any rule, regulation or order issued thereunder, at the request of the commissioner of environmental protection, the attorney general may make application to the appropriate court for an order enjoining such acts or practices or for an order directing compliance and, upon a showing by the commissioner that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order or other order may be granted.

(1967, P.A. 550, S. 6; 1971, P.A. 872, S. 420.)
History: 1971 act replaced commissioner of health with commissioner of environmental protection; Sec. 19-25g transferred to Sec. 22a-156 in 1983.

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-151 to 22a-158, inclusive.

(1967, P.A. 550, S- 7.)
History: Sec. 19-25h transferred to Sec. 22a-157 in 1983.

Sec. 22a-158. (Formerly Sec. 19-25i). Records. (a) The commissioner of 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 a individuals for whom personnel monitoring is required by said regulations.

(1967, P.A. 550, S. 8; 1971, P.A. 872, S. 421.)

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.

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 11. 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 111. 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, sha 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:

I . 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:

I . 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 referred to Sec. 22a-159 in 1983.
Annotation to former section 19-25j:
Compact has been enacted into law by each state enumerated in Art. I.

Sec. 22a-160. (Formerly Sec.19-25k).Formulation and maintenance of radiation incident plan. The commissioner of 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 11 (a) of the compact,

(1969, P.A. 663, S. 2; P.A. 73-63, S. 1, 2.)
History: P.A. 73-63 replaced commissioner of health with commissioner of environmental protection; Sec. 19-25k transferred to Sec. 22a-160 in 1983.
See Sec. 22a-135 re reporting of nuclear incidents.

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

ARTICLE 1. 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 lowlevel 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 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;

(l) "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;

(0) "Party state" means any state which is a signatory party in good standing to this compact;

(k) "Person" means an individual, corporation, business enterprise or other legal entity, either public or private and their legal successors;

(1) "Post closure 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 radio nuclides 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 111. 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 post closure 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, post closure 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, post closure 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 non party 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;

(0) 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;

(1) 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, post closure 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, post closure 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 post closure 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, post closure 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 post closure

and institutional control funds and the remaining useful life of the facility. A host state shall solic comments from each party state and the commission regarding the siting, operation, financia assurances, closure, post closure 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, post closure observation and maintenance and institutional control of the regional facility. The host state shall determine a schedule for contributions to the post closure 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 anc 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 111, 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 chair*men 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 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 post closure 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 post closure 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 post closure 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.

statement of qualifications and previous experience with low-level radioactive waste management including, but not limited to, a listing of all low-level radioactive waste management projects or methods with which the applicant has had any connection or affiliation, either as owner, operator, contractor, supplier or consultant, and, if the person is a business entity, the names and addresses of all parent and subsidiary corporations, partners, corporate officers and directors and stockholders holding more than fifteen per cent of the stock of the corporation, and (2) a list of any criminal and civil charges or enforcement actions, or other formal or informal enforcement proceedings related to low-level radioactive waste or to other state or federal statutes, regulations, licenses, permits, approvals, certificates or orders in which the applicant or any corporate parent, subsidiary, affiliate, partner, corporate officer or director or stockholder holding more than fifteen per cent of the stock of the corporation has been involved.

(d) If a person submitting information under subsection (c) of this section becomes aware of a change or error in any information submitted or that any relevant facts were omitted from the submission, such person shall submit the correct information to the service in writing within seven days.

(e) In selecting a person to submit the application, the service shall consider the information submitted pursuant to subsections (c) and (d) of this section and any other factor or information it deems relevant.

(P.A. 87-540, S. 5, 26; P.A. 88-361, S. 5, 29; P.A. 91-337, S. 5, 15; June 26 Sp. Sass. P.A. 91-1, S. 1, 4.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987, P.A. 88-361 amended Subsec. (a) by eliminating the requirement that four potential sites be evaluated and by establishing a process for site evaluation, amended Subsec. (b) by specifying the information required to be submitted to the service to select a person to submit an application for a certificate of public safety and necessity, added new Subsec. (c) concerning changes or errors in information submitted and relettered the remaining Subsec. accordingly;
P.A. 91-337 in Subsec. (b) made a technical change in responsibility of person selected by the service, June 26 Sp. Sass. P.A. 91-1 inserted a new Subsec. (b) concerning grants to affected municipalities and relettered subsequent Subsec. designators accordingly.

Sec. 22a-163e. Submission of application for the siting of a regional low-level radioactive waste facility. The person selected by the service pursuant to subsection (b) of section 22a- 163d, shall be responsible for submitting applications for all necessary state and federal approvals, certificates, licenses and permits for construction, operation and maintenance of a regional low-level radioactive waste facility, including, but not limited to, (1) an application for a certificate of public safety and necessity for the siting of a regional low-level radioactive waste facility from the council, (2) an application for a license for the construction and operation of a regional low-level radioactive waste facility from the Nuclear Regulatory Commission, and (3) if applicable, approvals for the management of mixed waste at the regional low-level radioactive waste facility from the Nuclear Regulatory Commission and the United States Department of Environmental Protection or the state of Connecticut. Notwithstanding the provisions of sections 22a-114 to 22a-134q, inclusive, if the waste facility will receive mixed-waste, as defined in subdivision (13) of section 22a-163a, the provisions of sections 22a-163a to 22a-163w, inclusive, shall apply exclusively to the process of siting the waste facility.

(P.A. 87-540, S. 6, 26; P.A. 88-361, S. 6, 29; P.A. 91-337, S. 6, 15.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 imposed deadline for submission of application; P.A. 91-337 detailed the responsibilities of the person selected by the service.

Sec. 22a-163f. Regulations. (a) Except as specified in subsections (b) and (c) of section 16-50j, sections 22a-134cc and 22a-134ff and 22a-163 to 22a-163u, inclusive, the regulations and procedures

the local public health, safety and welfare, including the risk from an accidental release of low-leve radioactive wastes during transportation to the facility or while at the facility, and the risks from water, air and land pollution and from fire and explosions; (4) the effect of any waste facility constructed at the site on existing and planned local land use and development, and on local public facilities and services and private institutions; (5) the adverse effects of a waste facility at the site on agricultural and natural resources and the availability of resources for mitigating or eliminating such adverse effects by stipulations, conditions and requirements for the facility's design and operation; (6) the potential effects of any such facility on private and public water supplies; (7) the current and projected population density in the area where the facility is to be located; and (8) any other factor the service deems appropriate.

(P.A. 87-540, S. 4, 26; P.A. 88-361, S. 4, 29; P.A. 92-45, S. 2, 7.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 made technical changes; P.A. 92-45 amended Subdiv. (4) to add private institutions to the considerations re development around a potential site and added new Subdivs . (6) and (7) concerning effects on water supplies and population density as additional considerations re a potential site.

Sec. 22a-163d. Evaluation of potential sites. Technical assistance for review of selection and evaluation process. Selection of person to submit application for certificate. (a) The Connecticut Hazardous Waste Management Service shall select one or more potential sites for a regional low-level radioactive waste facility based on the factors set forth in section 22a-163c. If the regional low-level radioactive waste facility is to be a disposal facility, each site shall be evaluated by the service to determine compliance with the criteria for the land disposal of low-level radioactive waste identified in Title 10, Code of Federal Regulations, Part 61, and any other criteria established by state or federal law. In selecting each potential site, the service shall use a process of site evaluation which considers generalized areas initially derived by applying a broad level of analyses using the site evaluation factors established in section 22a-163c and the criteria specified in this section. The service shall establish a continuing process of technical refinement of such areas based on more detailed levels of technical analyses of the factors provided in said section and the criteria specified in this section. Any person may offer a land area for consideration as a potential site. Any such land area shall be evaluated by the service with the criteria used for evaluation of any site. If the regional low-level radioactive waste facility is to be a storage or treatment facility, each potential site shall be evaluated by the service to determine compliance with criteria adopted for such facilities by the United States Nuclear Regulatory Commission and with any other criteria established by state or federal law.

(b) The commissioner, with the approval of the secretary of the office of policy and management, shall make a grant of one hundred thousand dollars from the Low-Level Radioactive Waste Management Fund to any municipality for each site in such municipality to be evaluated by the service pursuant to this section. Such grant shall be used for the purpose of conducting (1) a legal and technical review of the site selection process and (2) an independent evaluation by such municipality based on the factors established in section 22a- 163c and the criteria established by state and federal law.

(c) Upon evaluation of each proposed site in accordance with subsection (a) of this section, the service shall choose a site for a regional low-level radioactive waste facility and any method of management of low-level radioactive waste to be used at such site. The service shall choose the site based on the factors established in section 22a-163c and the degree to which the site exceeds minimum criteria established by state or federal law. The service shall notify the commissioner of public works of the selection and location of a site. The service shall select a person to carry out the responsibilities set forth in section 22a-163e and shall monitor and oversee the activities of such person. Such person may provide technical assistance but shall not have participated in the selection of any proposed site. Such person shall submit to the service any information the service deems necessary to make a selection, including, but not limited to, the following: (1) A detailed statement of financial capabilities as well as a

funding, the service shall prepare and revise, as necessary, a low-level radioactive waste managemen plan. On or before February 1, 1993, the service shall prepare a new low-level radioactive waste management plan. The new plan shall include selection criteria for the siting of a low-level radioactive waste disposal facility in this state pursuant to the provisions of sections 22a-163d and 22a-163e and shall provide for a public hearing and for comment by the municipalities and the public on such criteria prior to adoption thereof by the service. Such criteria shall include, but shall not be limited to, consideration of (A) the potential effects of any such facility on private and public water supplies, (B) the effect of any waste facility constructed at the site on existing or planned local land use and development, and on local public facilities and services and private institutions and (c) current and projected population density in the area where the facility is to be located. Such new plan shall further include, but not be limited to, the following:

(1) A current inventory of low-level radioactive waste generators within the region authorized by the commission to use the regional low-level radioactive waste facility;

(2) A cur-rent inventory of the sources, volumes, types and half life of the wastes generated within the region by the waste generators authorized by the commission to use the regional low-level radioactive waste facility;

(3) Projections of the volumes, types and half life of the low-level radioactive wastes which are expected to be generated in the region during the next twenty years by the waste generators authorized by the commission to use the regional low-level radioactive waste facility;

(4) A technical analysis of appropriate methods of management of low-level radioactive waste, which shall evaluate their respective capacities to effectively isolate low-level radioactive wastes from the biosphere;

(5) Analysis of transportation routes and transportation costs from low-level radioactive waste generators in the region authorized by the commission to use the regional low level radioactive waste facility to the various areas of the state; and

(6) An analysis of the waste stream generated by the waste generators authorized by the commission to use the regional low-level radioactive waste facility with respect to the overall costs of a facility located in this state.

(P.A. 87-540, S. 3, 26; P.A. 88-361, S. 3, 29 P.A. 92-45, S. 1, 7.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 substituted the term "management" for "disposal" and made technical changes; P.A. 92-45 added provisions re a new low-level radioactive waste management plan, requiring the service to adopt new site selection criteria as specified in the section on or before February 1, 1993.

See Secs. 22a-163y and 22a-163aa re termination of old plan and procedures re new plan

Sec. 22a-163c. Selection of potential sites. Upon completion of the management plan required under section 22a-163b, the service shall evaluate and select one or more potential sites for a regional low-level radioactive waste facility. In making its evaluation, the service shall consider, but not be limited to, the following factors: (1) The economic feasibility of a waste facility at the site, including the proximity of the site to concentrations of generators of low-level radioactive waste; (2) the potential compliance of any waste facility constructed at the site with federal and state laws and regulations, including, but not limited to, environmental laws and regulations; (3) the risk a waste facility at the site would pose to

(6) "Development and management" means a plan required at the council's discretion, prepared by the certificate holder in conjunction with council staff, specifying how project construction will comply with siting orders issued by the council.

(7) "Institution" means a scientific, educational or health care organization that generates low-level radioactive waste.

(8) "Institutional control" means the continued observation, monitoring and care of the regional low-level radioactive waste facility following transfer of control of the regional facility from the operator to the custodial agency.

(9) "Low-level radioactive waste" means radioactive material that (A) is not high-level radioactive waste, spent nuclear fuel, or by-product material, as defined in 42 USC 2014(e)(2); (B) the Nuclear Regulatory Commission, consistent with existing law and in accordance with subparagraph (A) of subdivision (9) of this section, classifies as low-level radioactive waste; or (c) is defined as low-level radioactive waste in the Low-Level Radioactive Waste Policy Amendments Act of 1985, P.L. 99-240, including material which is reclassified by the United States Nuclear Regulatory Commission as below regulatory concern if such material was classified as low-level radioactive waste on or before June 30, 1991, as from time to time amended.

(10) "Person" means an individual, corporation, business enterprise or other legal entity, either public or private, and its legal successors.

(11) "Regional low-level radioactive waste facility" or "low-level radioactive waste facility" or "waste facility" means a facility located in or to be located in Connecticut, including the land with any buffer zone, buildings, equipment and improvements used or developed for the treatment, storage or disposal of the low-level radioactive wastes generated within the party states to the northeast interstate low-level radioactive waste compact as authorized by the commission.

(12) "Waste management" or "management"means the storage, treatment or disposal of low-level radioactive waste.

(13) "Mixed waste" means waste that satisfies the definition of low-level radioactive waste, as defined in subdivision (9) of this section and contains hazardous waste that either (A) is listed as hazardous waste in Subpart D of 40 CFR 261 or (B) causes the low-level radioactive waste to exhibit any of the hazardous waste characteristics identified in Subp
C of 40 CFR 261.

(P.A. 87-540, S. 2, 26; P.A. 88-361, S. 2, 29; P.A. 91-326, S. 1, 4; 91-337, S. 4, 15; 91-407, S. 21; P.A. 93-381, S. 9, 39.)
History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 entirely replaced previous provisions defining applicable terms with new provisions; P.A. 91-326 redefined "low-level radioactive waste" to include any such waste reclassified as below regulatory concern by the U.S. Nuclear Regulatory Commission and specified that definitions apply to See. 22a-163x; P.A. 91-337 in Subdiv. (5) redefined "custodial agency" in Subdiv. (9) redefined "low-level radioactive waste" and added new Subdiv. (13) defining "mixed waste"; P.A. 91-407 amended Subdiv. (9) by making technical change; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993.

Sec. 22a-163b. Duties of Connecticut Hazardous Waste Management Service. Low-level radioactive waste management plan. The Connecticut Hazardous Waste Management Service, in addition to its responsibilities under chapter 445a, shall assist the state in fulfilling its responsibilities under the Northeast Interstate Low-Level Radioactive Waste Compact to provide for the management of low-level radioactive waste pursuant to the provisions of said compact. Upon receipt of appropriate

radiation in the radio frequency spectrum in excess of the standards. Any source of nonionizing radiatior 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;1 P.A. 94-89, S. 1 1.)
History: P.A. 94-89 deleted a reference to a specific frequency range for purposes of the requirements of this section.

Sec. 22a-163. Declaration of state policy. The general assembly finds that the utilization of radioactive materials for the production of electric power, medical treatment and diagnosis, research, and a variety of industrial processes necessarily produces low-level radioactive wastes that must be carefully handled, stored, transported and disposed of; that the federal Low-Level Radioactive Waste Policy Act of 1980, as amended, provides that each state is responsible for the disposal of low-level radioactive waste generated within that state and enabled states to join together into regional compacts to jointly plan and operate low-level radioactive waste facilities; that Connecticut has joined the Northeast Interstate Low-Level Radioactive Waste Compact, and, if pursuant to said compact, Connecticut is designated as a host state for a regional low-level radioactive waste facility, the proper siting of such a facility is in the best interest of Connecticut's citizens. Therefore, the general assembly declares that it is the policy of the state to assure the proper siting of a low-level radioactive waste facility so that the health and safety of Connecticut citizens and the environmental and economic interests of the state are protected. The purpose of subsections
(b) and (c) of section 16-50j and sections 22a-134cc, 22a-134ff and 22a-163 to 22a-163u, inclusive, is to establish a process for the siting of a regional low-level radioactive waste facility that will protect the environment of Connecticut and the health and safety of Connecticut's citizens, and assure the continued availability to Connecticut's citizens of the benefits that result from processes which utilize radioactive materials and therefore generate low level radioactive wastes.

(P.A. 87-540, S. 1, 26; P.A. 88-361, S. 1, 29.)
History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 98-361 made technical changes.

Sec. 22a-163a. Definitions. As used in sections 22a-163 to 22a-163u, inclusive, and 22a-163x:

(1) "Commission" means the Northeast Interstate Low-level Radioactive Waste Commission established under section 22a-161.

(2) "Commissioner" means the commissioner of environmental protection.

(3) "Connecticut Hazardous Waste Management Service" or "service" means the service established under section 22a-134bb.

(4) "Council" means the membership of the Connecticut Siting Council established under section 16-50j, for proceedings under subsections (b) and (c) of said section and sections 22a-134cc and 22a-134ff and 22a-163 to 22a-163u, inclusive, consisting of the commissioners of public health and addiction services and public safety or their designees, five members appointed by the governor and one designee each of the speaker of the house of representatives and president pro tempore of the senate.

(5) "Custodial agency" means the state agency or entity so designated in subsection(a) of section 22a-163w.

(June Sp. Sess. P.A. 83-2, S. 1.)

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.)

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.)

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.)

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, as defined in section 22a-1 63a, 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.)

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 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 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.)
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.

Sec. 22a-162a. Compliance with standards. On and after the effective date of the standards adopted in accordance with section 22a- 1 62, no person shall operate a new source of nonionizing

of the Connecticut Siting Council shall be the same as those for proceedings under sections 16-50g t(16-50z, inclusive, and in the rules of practice adopted under said sections.

(b) The commissioner shall adopt, in accordance with the provisions of chapter 54, except that notice may be published not later than October 1, 1988, regulations he deems necessary to carry out the provisions of subsections (b) and (c) of section 16-50j, sections 22a-134cc, 22a-134ff and 22a-163 to 22a-163u, inclusive, including regulations for licenses, permits and approvals within his jurisdiction which must be applied for to comply with subsection (d) of section 22a-163h.

(c) The permanent members of the council shall adopt, in accordance with the provisions of chapter 54, except that notice may be published not later than October 1, 1988, regulations they deem necessary to carry out the provisions of subsections (b) and (c) of section 16-50j, sections 22a-134cc, 22a-134ff and 22a- 163 to 22a-163u, inclusive, including regulations for the siting of regional low-level radioactive waste facilities. Such regulations shall establish reasonable application fees to meet administrative costs. The permanent members of the council shall also by regulation establish procedures for an assessment to finance any additional anticipated expenses of reviewing, hearing, and issuing a decision on an application for a regional low-level radioactive waste facility, including expenses for staff, consultants and studies which such council deems necessary provided that no study shall duplicate a previous study required of the applicant.

(d) The commissioner shall adopt regulations in accordance with the provisions of chapter 54, except that notice may be published not later than October 1, 1988, for the construction, operation, closure and stabilization, post closure observation and maintenance and institutional control of low-level radioactive waste facilities.

(P.A-87-540, S. 8, 26; P.A. 88-361, S. 8, 29.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 amended Subsecs. (b) to (d), inclusive, by specifying that notice be published not later than October 1, 1988, and amended Subsec. (c) to authorize the council to adopt any regulations it deems necessary to implement its authority under Secs. 16-50j, 22a-134cc, 22a-134ff and 22a-163 to 22a-1 63u, inclusive.

Sec. 22a-163g. Certificate for construction or modification of regional low-level waste facility. (a) No person shall commence construction of a regional low-level radioactive waste facility unless such person has been selected by the service to submit an application and has been issued a certificate of public safety and necessity by the council. Any facility for which such a certificate is required shall thereafter be built, maintained and operated in conformity with such certificate, including all terms, limitations or conditions contained therein.

(b) No certificate may be transferred, except to the custodial agency pursuant to state and federal law, without the approval of the permanent members of the council. Any person applying to the council to transfer a certificate shall provide to the council all of the information specified in subsection (a) of section 22a-163h unless the permanent members of the council specify otherwise. Any transferee shall comply with the terms, limitations and conditions contained in the certificate. The permanent members of the Siting Council shall not approve any such transfer if they find that such transfer was contemplated at or prior to the time the certificate was issued and such fact was not adequately disclosed during the certification proceeding, or if they find that the transferee lacks the financial, technical or management capabilities to comply fully with the terms, limitations or conditions of the certificate.

(c) No person shall modify a facility or revise maintenance or operational procedures at a facility without obtaining an amendment to the certificate issued for such facility. A certificate may be amended

as provided in subsections (b) and (c) of section 16-50j, sections 22a-134cc, 22a-134ff and 22a-163 to 22a-163u, inclusive.

(P.A. 87-540, S. 9, 26; P.A. 88-361, S. 9, 29.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 made technical changes and amended Subsec. (b) to require that certificate be amended before modifications or revisions are made at a facility.

Sec. 22a-163h. Application for certificate. Information required. Amendment or transfer of certificate. Issuance of other permits by commissioner of environmental protection. Notice of application. (a) An application for a certificate shall be filed with the council, accompanied by a fee established by regulation adopted by the permanent members of the council, as provided in section 22a-163f, containing such information as the council may deem relevant, including, but not limited to, the following: (1) A description, including estimated cost, of the proposed facility; and a description of the waste to be handled and management technology to be used and, if a land disposal facility is proposed, an explanation of why no other management method is reasonably available; (2) reasons for choosing the site and the proposed type of low-level radioactive waste facility selected and a comparison of alternative sites and technologies; (3) a schedule of dates setting forth the proposed program of acquisition, construction, completion and operation; (4) environmental site information including, but not limited to, (A) maps with narrative description of air quality and movement, ground and surface water conditions, levels, movement and fluctuations, vegetation and wildlife populations and habitat, seismic characteristics and hydrogeologic evaluation of the site, setting forth data and analysis as the council shall require, including but not limited to, a map showing the proximity of the proposed site to facilities or properties owned or operated by a water company as defined in section 25-32a, a map showing the land classification of the proposed site under the classification established by section 25-37c, and a report on the impact of the proposed facility on the environment including, but not limited to, present and future public water supplies and private wells and (B) design, capacity, operation and management information; (5) human population density information for the area of the proposed facility; (6) traffic information including road and transportation access data and maps; (7) information on present and future development of the town where the facility is proposed to be located and for the surrounding towns; (8) a detailed description of provisions, including equipment and operation, for planning for prevention of hazards, monitoring of ground water quality, mitigation of the effect of the operation of the facility on public health, safety and welfare and the environment, and contingency plans and emergency procedures for dealing with facility malfunctions; (9) a listing of federal, state, regional and municipal agencies from which approvals have been received and the planned schedule of obtaining those approvals not yet received; (10) incentives offered and benefits accruing to the municipality in which the proposed facility is to be located; (l 1) an assessment of the need for the facility and the amount and types of the state's annual low-level radioactive waste generation which the applicant proposes to dispose of, treat or store at the facility; (1 2) a plan for facility closure and stabilization and post closure observation and maintenance and transfer of the facility to the custodial agency for institutional control, as required by regulations adopted by the commissioner pursuant to section 22a-163f; (l 3) a detailed statement of the applicant's financial capabilities as well as a statement of the applicant's qualifications and previous experience with low-level radioactive waste management, including, but not limited to, a listing of all low-level radioactive waste management projects or methods with which the applicant has had any connection or affiliation, either as owner, operator, contractor, supplier or consultant and if the person is a business entity, the names and addresses of all parent and subsidiary corporations, partners, corporate officers and stockholders holding more than fifteen per cent of the stock of the corporation; (14) a list of any criminal or civil charges and enforcement actions, or other formal or informal enforcement proceedings related to low-level radioactive waste or to other state or federal laws, regulations, licenses, permits, approvals, certificates or orders in which the applicant or any corporate

parent, subsidiary, affiliate, partner, corporate officer or director or stockholder holding more than fifteen percent of the stock of the corporation has been involved; (I 5) a schedule of dates for the initial receipt of wastes at the facility and facility closure; (I 6) an analysis of the compatibility of the facility with surrounding land uses; (17) local, state, and federal standards, codes, and regulations applicable to the design, location, operation, and closure of the facility; (I 8) a description of the proposed methods of segregation and storage of wastes, any treatment processes to be used, and methods of waste emplacement; (I 9) a description of all proposed facility pollution monitoring and proposed control methods and procedures; (20) a description of proposed audit and quality control procedures; (21) a health risk assessment, including projected effects on mortality and morbidity rates among affected populations;
(22) a description of methods of preventing inadvertent intrusion and assuring facility security; (23) applicable design criteria pertaining to natural phenomena and a description of how the proposed design of the facility meets these criteria; (24) an analysis of the amounts of third party insurance, surety bonds, trust funds and other for*ms of security that will be required to meet the financial requirements specified in subsection (d) of section 22a- 163*1 and in section 22a-163o; (25) a plan for meeting the financial requirements analyzed under subdivision (24) of this subsection; (26) a description of the management and administrative program for the operation of the proposed facility which contains the name of the principal individual to be responsible for operation, a resume of the individual's qualifications and experience, and a statement of the number, duties, qualifications and experience of all key personnel, as determined by the council, to be involved in the storage, treatment or disposal of low-level radioactive waste; and (27) a copy of any application and any environmental report the applicant files with the United States Nuclear Regulatory Commission to obtain a license to operate a regional low-level radioactive waste management facility if a license is required.

(b) If an applicant or certificate holder becomes aware of a change or error in any information submitted as part of an application for a certificate, or that any relevant facts were omitted from the application, such applicant or certificate holder shall submit the correct information to the council in writing within seven days.

(c) Any person applying to the council to amend a certificate shall provide all of the information specified in subsection (a) of this section, unless the permanent members of the council specify otherwise. An application for the amendment of a certificate shall be in such form as the permanent members of the council shall require.

(d) The council shall not accept any application for a certificate for a low-level radioactive waste facility until the applicant has applied to the commissioner of environmental protection for all licenses, permits or approvals which are within his jurisdiction. The commissioner shall make available to the council the record of proceedings on the application for environmental licenses, permits or approvals. The commissioner shall immediately notify the chief elected official of the town where the facility is proposed to be located of receipt of an application for such licenses, permits or approvals.

(e) Notwithstanding the provisions of section 4-180, the commissioner shall not render a final decision approving any environmental licenses, pen-nits or approvals necessary for a low-level radioactive waste facility until the council issues a certificate of public safety and necessity unless such decision is required by federal law. The commissioner shall publish in the Connecticut Law Journal a notice of his intent to issue such licenses, permits or approvals.

(f) An application to the council shall be accompanied by proof of service of a copy of such application on the chief elected official and the director of health of each municipality in which the proposed low-level radioactive waste facility is to be located, the fire marshal, the chairpersons of the conservation

commission, inland wetlands agency, planning commission, police commission and zoning commission of each municipality in which the proposed facility is to be located, the chairperson of the regional planning agency for the region in which the proposed facility is to be located, each water company, as defined in section 25-32a, which owns or operates land or facilities located in, or serves any customer who resides in, the municipality in which the site is located or an area within a five-mile radius of the boundaries of the proposed site, each member of the legislature in whose district the proposed facility is to be located, each owner of land adjacent to the proposed facility, the Northeast Interstate Low-Level Radioactive Waste Commission, the Connecticut Hazardous Waste Management Service, as defined in section 22a-163a, and each state department, council and commission named in subsection (e) of section 22a-163i. Notice of the application shall be given to the general public by publication, in ten-point boldface type, of a summary of such application and the date on which it will be filed in a newspaper of general circulation in each municipality in which the proposed facility is to be located.

(P.A. 87-540, S. 10, 26, P.A. 88-361, S. 10, 29.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 made technical changes and amended Subsec. (a) by adding Subdiv. a. (24) to (27), inclusive, to the information the council may request, inserted new Subsec. (b) concerning changes or errors in an application and relettered the remaining Subsecs. accordingly and amended Subsec. (c) to require applications for certificate amendments to contain the same information as applications for certificates.

Sec. 22a-163i. Hearing on application, appointment of ad hoc members. Notice. Comments by state agencies. Time for decision. (a) Upon receipt by the council of an application for a certificate for a regional low-level radioactive waste facility, or an application for the amendment or transfer of a certificate for a waste facility, which meets the requirements of section 22a-163h the council shall immediately notify the governor and the chief elected official of the municipality or municipalities in which the proposed facility is to be located. The ad hoc members of the council shall be appointed within thirty days after the filing of the application. If the chief elected official does not appoint the members within thirty days, the council shall appoint them within ten days thereafter. Within sixty days after receipt of the application, the council shall hold a meeting at which a date and location for the commencement of a public hearing on the application shall be established, which public hearing shall begin not more than one hundred eighty days after receipt of such application. At least one session of such hearing shall be held after six-thirty p.m. for the convenience of the general public. Such hearing shall be held at a location selected by the council, in the municipality in which the proposed facility is to be located. If the proposed facility is to be located in more than one municipality, the council shall fix the location for a public hearing in whichever municipality it determines is most appropriate, provided the council may hold hearings in more than one municipality.

(b) The council shall give not less than thirty days' notice of the commencement of the hearing by mailing a notice of the date, time and location of the commencement of the hearing to the applicant and each person entitled under subsection (f) of section 22a-163h to receive a copy of the application. The council shall also cause a notice of the date and location of the commencement of the hearing to be published, in ten-point boldface type, in a newspaper of general circulation in each municipality in which the proposed low-level radioactive waste facility is to be located at least twenty days prior to the commencement of the hearing.

(c) Hearings shall be held before a majority of the members of the council.

(d) During any hearing held pursuant to this section, the council shall take notice of facts in a manner provided by section 4-178.

(e) Prior to commencing any hearing pursuant to this section the council shall consult with and solici written comments from the departments of environmental protection, public health and addiction services, public utility control, economic development, public safety and transportation, the office of policy and management and the Council on Environmental Quality. Copies of comments submitted by such agencies shall be available to all parties prior to commencement of the public hearing. Agencies consulted may file additional comments within thirty days of the conclusion of the hearing and such additional comments shall be a part of the record.

(f) The council shall render its decision within one year of receipt of the application except that such time limit may be extended one hundred eighty days by agreement of the council and applicant.

History: P. A. 87-540 effective upon designation of Connecticut (P.A. 87-540, S. 11, 26; P.A. 88-361, S. 11, 29; P.A. 93-381, S. 9, 39.) as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 made technical changes, amended Subsec. (b) by lengthening the time for extensions for decisions on applications from sixty to one hundred eighty days and deleted Subsec. (g) regarding expedited schedules for applications; P.A. 93-381 replaced department of health services with department of public health and addiction services, effective July 1, 1993.

Sec. 22a-163j. Parties to certification proceedings. Limited appearances. Grouping of parties. Super vision of legal matters for council. (a) The parties to the certification proceedings shall include: (1) The applicant; (2) each person entitled to receive a copy of the application under subsection (f) of section 22a-163h if such person has filed with the council a notice of intent to be made a party and (3) such other persons as the council may at any time deem appropriate.

(b) Any person may make a limited appearance at a hearing held pursuant to section 22a-163i prior thereto or within thirty days thereafter, entitling such person to file a statement in writing or to make a brief oral statement at a hearing. All papers and matters filed and statements made by a person making a limited appearance shall become part of the record. No person making a limited appearance, and not otherwise entitled to be a party, shall be a party or shall have the right to cross-examine witnesses or parties or be subject to cross examination.

(c) The council in its discretion may provide for the grouping of parties with the same interests. If such a group does not designate an agent for the service of notice and documents, then the council shall designate such an agent. Notwithstanding the provisions of this subsection, any party who has been included in a group may, at any time by oral or written notice to the council, elect not to be a member of the group to the extent specified in such notice.

(d) The assistant attorney general or the special assistant attorney general appointed pursuant to subsection (c) of section 16-50n shall have supervision of legal matters concerning the council.

(P.A. 87-540, S. 12, 26; P.A. 88-361, S. 12, 29.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 amended Subsec. (a) by requiring a person to file a notice of intent before he may be considered a party.

Sec. 22a-163k. Record of hearing. Rights of parties. (a) A record shall be made of the hearing and of all testimony taken and the cross-examination thereon. Every party or group of parties shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(b) A copy of the record shall be available at all reasonable times for examination by the public without cost at the principal office of the council. A copy of the transcript shall be filed in the office of the town clerk in each municipality in which the proposed low-level radioactive waste facility is to be located. A copy of the record may be obtained by any person upon payment of a fee deter*mined by the permanent members of the council.

(P.A. 87-540, S. 13, 26; P.A. 88-361, S. 13, 29.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 amended Subsec. (b) by inserting "low-level radioactive waste" before "facility".

Sec. 22a-1631. Decision and opinion. Criteria for decision. Findings and determination. Financial responsibility. (a) The council shall, within the time specified in subsection (f) of section 22a-163h, render a decision upon the record by an affirmative vote of not less than seven council members either granting or denying the application as filed, or granting it upon such terms, limitations or conditions as the council may deem appropriate, including the filing and approval of a development and management plan. The council shall file, with its decision, an opinion stating in full the reasons for its decision.

(b) In making its decision, the council shall consider: (1) The impact of the proposed low-level radioactive waste facility on the municipality and affected geographic area in which it is to be located in terms of public health, safety and welfare including but not limited to (A) the risk and impact of accident during transportation of low-level radioactive waste, (B) the risk and impact of fires or explosions from improper storage, treatment or disposal of low-level radioactive waste at the proposed facility, (c) consistency of the proposed facility with local and regional land use plans and regulations and the state conservation and development plan in effect at the time the applicant applies to the commissioner of environmental protection for the environmental licenses, permits, or approvals necessary to construct and operate the facility, and with existing and proposed development in the area, (D) the protection of the public from adverse impacts including but not limited to adverse economic impacts of the facility during its construction and operation and after its operational life, (E) the risk and impact on public and private drinking water supplies; (2) the population density in the area of the proposed facility and its proximity to residential areas; and (3) other criteria consistent with the goal of insuring the maximum safety of the public from potential dangers associated with the siting of low-level radioactive waste facilities which may be established by regulation adopted by the permanent members of the council in accordance with the provisions of subsection (c) of section 22a-163f. The permanent members of the council shall adopt regulations in accordance with the provisions of chapter 54 establishing minimum distances between the active parts of the regional low-level radioactive waste facility and other land uses, except that notice may be published not later than October 1, 1988.

(c) The council shall not grant a certificate unless it finds and determines: (1) A public need for the capacity and type of technology of the low-level radioactive waste facility, provided the determination of public need shall be limited to the engineering and economic reasons for the technology and site proposed versus alternative technologies and sites; (2) the nature of the probable environmental impact of the facility including but not limited to those listed in subsection (b) of this section; (3) in the case of a proposed land disposal facility, an explanation of why no other management method is more appropriate; (4) significant single and cumulative adverse effects on and conflicts with state policies on (A) the natural environment, (B) the ecological balance, (c) the public health, safety and welfare, (D) scenic, historic and recreational values, (E) forests and parks, (F) air and water purity, including impact on present and future sources of water supply and (5) that the adverse effects or conflicts set forth in subdivision (4) of this subsection are not sufficient for denial of the certificate. Any certificate issued by

the council shall require that the method of management of low-level radioactive waste to be used a the facility be the method chosen by the service pursuant to section 22a-163d.

(d) The council shall not grant, amend or transfer a certificate unless the following financial responsibility requirements are met: (1) For the period of low-level radioactive waste facility operation as specified in regulations adopted by the commissioner pursuant to section 22a-163f, the applicant shall maintain third party liability insurance for sudden and nonsudden occurrences in an amount fixed by the council. Insurance shall be provided by a carrier licensed by the insurance commissioner and who evidences at all times the financial resources necessary for licensure. The council may accept other forms of security which the council deems equivalent to third party insurance if such insurance is not reasonably available. Certification of insurance is to be filed annually by the applicant with the council; (2) for the period of closure and stabilization and post closure observation and maintenance, as specified in regulations adopted by the commissioner pursuant to section 22a-163f, the applicant shall provide, prior to operation, a surety bond or other security acceptable to the council in an amount fixed by the council sufficient to pay for the costs of closure and stabilization and post closure operation and maintenance. The amount and form of security also shall be fixed by the council. A trust fund shall be established to be financed by yearly payments by the low-level radioactive waste facility operator. The amount paid into the fund shall be fixed by the council so that at the time of closure the fund shall be sufficient to pay the costs of closure and stabilization and post closure operation and maintenance. The surety bond or other security may be reduced each year by the amount paid into the trust fund. Deposits into the trust fund shall be made to the state treasurer and disbursements from the fund shall be made upon authorization of the commissioner; (3) for the period of institutional control, as specified in regulations adopted by the commissioner pursuant to section 22a-163f, a trust fund shall be established to pay the costs of monitoring and maintenance during the institutional control period. The trust fund is to be financed by yearly payments by the low-level radioactive waste facility operator. The amount paid into the fund yearly shall be fixed by the council so that at the start of the institutional control period the fund shall be sufficient to pay the costs of monitoring and maintenance of the facility during the institutional control period. Deposits into the fund shall be made to the state treasurer and disbursements from the fund shall be made upon authorization of the commissioner. In the case of a proposed land disposal facility, the applicant shall further provide for a fund or other security for liability for damage during the institutional control period. Deposits into such fund shall be made to the state treasurer and disbursements from the fund shall be made upon authorization of the commissioner. The amount of the fund or other security and the manner of financing such fund shall be determined by the council based on the type of facility, the location of the facility and the kind of waste processed by such facility so that at the beginning of the institutional control period the fund or security shall be sufficient to cover the anticipated liability for damages. In the case of a proposed treatment or storage facility, the council may require a trust fund or other security for post closure liability for damages. To the extent that liability incurred during the institutional control or post closure period is to be paid from funds established in accordance with any federal or state act, the applicant shall not be required to maintain such fund or other security, (4) the applicant pays the costs, if any, incurred by the state for preparation of an off-site emergency plan for a worst case accident.

(e) A copy of the opinion, decision and order shall be served upon each party and a notice of the issuance of the opinion and order shall be published in such newspapers as will serve substantially to inform the public of the issuance of such. The name and address of each party shall be set forth in the decision.

(f) In making its decision as to whether or not to issue a certificate, the council shall in no way be limited by the fact that the applicant may already have acquired land or an interest therein or any necessary permits, certificates or orders for the purpose of constructing the facility which is the subject

of its application.

(g) Any party aggrieved by a decision of the council may appeal therefrom in accordance with the provisions of section 4-183.

(P.A. 87-540, S. 14, 26; P.A. 88-361, S. 14, 29.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate, Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 amended Subsec. (a) by authorizing the council to consider the development and management plan in granting or denying a permit, amended Subsec. (b) by making technical changes and specifying that regulations re minimum distance be adopted by October 1, 1988, and made technical changes in Subsecs. (c) to (e), inclusive.

Sec. 22a-163m. Enforcement of certificate requirements and other standards. Penalties. The commissioner shall insure that each low-level radioactive waste facility for which a certificate has been issued is constructed, maintained and operated in compliance with such certificate, and any other standards established pursuant to subsections (b) and (c) of section 16-50j and sections 22a-134cc, 22a-134ff and 22a-163 to 22a-163u, inclusive, except siting regulations adopted pursuant to section 22a-163f. The facility operator shall pay yearly to the department of environmental protection a reasonable sum determined by the commissioner, to ensure proper oversight and monitoring. Whenever the commissioner deems it necessary to provide further oversight and monitoring, the person to whom such certificate has been issued shall be charged with and pay such further expense. The commissioner shall have authority to issue cease and desist orders according to section 22a-7 and to suspend or revoke any permit issued by him upon a showing of cause and after a hearing. The council shall have the authority to issue cease and desist orders and to suspend or revoke any certificate issued by it upon a showing of cause and after a hearing. The courts may grant such restraining orders and such temporary and permanent injunctive relief as may be necessary to secure compliance with subsections (b) and (c) of section 16-50j and sections 22a-134cc, 22a-134ff and 22a-163 to 22a-163u, inclusive, and any regulations adopted, permit approved or certificate issued pursuant to said subsections and sections. The courts may assess civil penalties in an amount not more than ten thousand dollars per day for each violation of said subsections and sections, or of a regulation adopted, permit approved or certificate issued pursuant to said subsections and sections. Civil proceedings to enforce said subsections and sections, may be brought by the attorney general in the superior court for the judicial district of Hartford-New Britain at Hartford or for any judicial district affected by the violation. Any person who knowingly or wilfully violates any provision of said subsections and sections, or any provision of a regulation adopted, permit approved or a certificate issued pursuant to said subsections and sections, shall be fined not more than twenty-five thousand dollars per day for each day of such violation or imprisoned for not more than one year or both. The remedies and penalties in this section shall be cumulative and shall be in addition to any other penalties and remedies available at law, or in equity, to any person.

(P.A. 87-540, S. 15, 26; P.A. 88-230, S. 1, 12; 88-361, S. 15, 29; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8.) 'Note: On and after September 1, 1996, the phrase "judicial district of Hartford" shall be substituted for "judicial district of Hartford-New Britain at Hartford".

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-230 replaced "judicial district of Hartford-New Britain at Hartford" with "judicial district of Hartford", effective September 1, 1991; P.A. 88-361 made technical changes and specified that civil proceedings be brought to the judicial district of Hartford-New Britain at Hartford; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230

from September 1, 1993, to September 1, 1996, effective June 14, 1993.

Sec. 22a-163n. Exclusive jurisdiction of council. Municipal regulation of proposed location. Appeal of zoning decision. (a) Notwithstanding any other provision of the general statutes, the council shall have exclusive jurisdiction over the siting of facilities subject to the provisions of subsections (b) and (c) of section 16-50j and sections 22a-134cc, 22a-134ff and sections 22a-163 to 22a-163u, inclusive. In ruling on applications for certificates for facilities, the council shall give such consideration to other state laws and municipal ordinances and regulations as it shall deem appropriate. Whenever the council issues a certificate of public safety and necessity pursuant to said subsections and sections, such certificate shall satisfy and be in lieu of all other certificates, licenses, permits or approvals, or other requirements of state or municipal agencies in regard to any question of public safety and necessity.

(b) A proposed low-level radioactive waste facility may be regulated and restricted by any town, city or borough pursuant to chapters 124 and 126 and by any municipality pursuant to sections 22a-42 and 22a-42a. The applicant shall apply for any permits required by such agencies at the same time as the filing of the application with the council. Such local bodies may make all decisions necessary to the exercise of such power to regulate and restrict, which decisions shall be made within one hundred thirty days of any application notwithstanding any other statute to the contrary and shall be in writing and recorded in the records of their respective communities, and written notice of any decision shall be given to each party affected thereby. Each such decision shall be subject to the right of appeal within thirty days after the giving of such notice by any party aggrieved to the council, which shall have exclusive jurisdiction, in the course of any proceeding on an application for a certificate or otherwise, to affirm, modify or revoke such order or to make any decision in substitution thereof by a vote of eight of the members of the council. Appeal of a local zoning decision to the council shall be in lieu of any other appeal authorized by the general statutes.

(P.A. 87-540, S. 16, 26; P.A. 88-361, S. 16, 29.)
History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 made technical change

Sec. 22a-163o. Disposal Facility Trust Fund. A Low-Level Radioactive Waste Facility Trust Fund shall be established and financed by annual assessments levied on the operators of all regional low-level radioactive waste disposal facilities and by the operators of regional low-level radioactive waste treatment and storage facilities in amounts to be determined by the commissioner. Each operator of an assessed facility shall pay an amount fixed by the commissioner based on the amount of low-level radioactive waste processed at such facility. The aggregate paid yearly by all those assessed shall not be more than one million dollars. The assessment imposed on any operator of a low-level radioactive waste facility shall be limited to one per cent of the gross revenues of each facility operated. The method and amount of payment shall be fixed by the commissioner under the provisions of regulations adopted in accordance with chapter 54, except that notice may be published not later than July 1, 1989. When the fund balance exceeds ten million dollars, upon determination by the commissioner, no further assessments shall be made. When the balance of the fund is less than ten million dollars, the commissioner may reinstitute imposition and collection of the assessment. The fund shall be used for costs incurred by the custodial agency for monitoring and maintenance of any low-level radioactive waste facility and for any liability of the state pursuant to section 22a-163w. The fund shall also be used to cover any liability incurred during the low-level radioactive waste facility operation, closure and stabilization, post closure observation and maintenance and institutional control period not covered by the operator's financial responsibility requirements under subsection (d) of section 22a-1631. The fund shall be used only if costs are not paid from funds established in accordance with the provisions of any federal act. Payments from the fund shall be made by the treasurer upon authorization of the commissioner.

(P.A. 87-540, S. 17, 26; P.A. 88-361, S. 17, 29.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 deleted former Subsec. (a) re commissioner's power to determine whether facilities have reasonable alternative uses and to manage those facilities which revert to the state upon determination that they have no alternative use, and amended remaining provisions to impose deadline for publication of notice of July 1, 1989, and to make technical changes

Sec. 22a-163p. Local project review committee. Technical assistance for review of a application. (a) There may be established a local project review committee which shall consist of electors from the municipality or municipalities where the regional low-level radioactive waste facility is proposed to be located and one member who shall be an elector from the neighboring municipality likely to be most affected by the proposed facility. The neighboring municipality likely to be most affected shall be named by the council after the receipt of the application for approval of the site. Upon notification by the council that an application has been filed, the chief elected official of each municipality in which the facility is proposed to be located may appoint no more than three members to such committee and the chief elected official of the neighboring municipality likely to be most affected may appoint one member to the committee.

(b) Upon filing of an application with the council, the applicant shall deposit with the council one hundred thousand dollars to be disbursed by the council to the local project review committee for the sole use of obtaining technical assistance for such committee's review of the proposed low-level radioactive waste facility.

(P.A. 87-540, S. 18, 26; P.A. 88-361, S. 18, 29; P.A. 91-337, S. 7, 15.)

History: P.A. 87-540 effective upon designation of Connecticut as a host sedate by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 made a technical change and increased the amount deposited by an applicant with the council from sixty to one hundred thousand dollars; P.A. 91-337 in Subsec. (a) made changes in membership of the local project review committee, deleting provision re minimum and maximum number of members.

Sec. 22a-163q. Chief elected official's right of access to facility for inspection of premises and review of records. Time for response to complaints. The chief elected official of the municipality where the low-level radioactive waste facility is proposed to be located or his designee shall have full access to such facility for inspection of premises and for review of facility records. If, after any inspection, a formal written complaint is made to the commissioner, he shall respond within fourteen days. Where the complaint involves an immediate threat to the public health and safety the commissioner shall respond within twenty-four hours.

(P.A. 87-540, S. 19, 26; P.A. 88-361, S. 19, 29.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 made a technical change.

Sec. 22a-163r. Limitation on issuance of certificate. Legislative approval for agreements re disposal of low-level radioactive waste. Notwithstanding the provisions of subsections (b) and (c) of section 16-50j and sections 22a-134cc, 22a-134ff and sections 22a-163 to 22a-163u, inclusive, the council shall not issue a certificate of public safety and necessity for a low-level radioactive waste disposal facility if a state that is a member of the Northeast Interstate Low-Level Radioactive Waste Compact or a state or compact commission that is not a member of the Northeast Interstate Low-Level Radioactive Waste Compact has entered into a binding agreement or agreements with the state of Connecticut for the disposal of all low-level radioactive waste generated in this state for which the state is responsible under the Low-Level Radioactive Waste Policy Amendments Act of 1985, P. L. 99-240.

Said agreement shall be for a period of not less than eight years. The secretary of the office of polic and management shall submit the agreement within thirty days of its execution to the general assembly. Within thirty days of receipt of the agreement, the general assembly shall approve, reject or modify said agreement as a whole by a majority vote of those present and voting on the matter. If the general assembly does not act within thirty days after submission, the agreement shall be deemed approved. If at the time of submission of the agreement the general assembly is not in session, the agreement shall be submitted to the joint committee of the general assembly having cognizance of matters relating to the environment. No later than thirty days after receipt of the agreement such committee shall advise the secretary of its approval, disapproval or modifications. If the joint standing committee does not act within thirty days after submission, the agreement shall be deemed approved. If either the general assembly or the joint standing committee having cognizance of matters relating to the environment rejects the agreement the council may issue a certificate of public safety and necessity for a low-level radioactive waste disposal facility.

(P.A. 87-540, S. 20, 26; P.A. 88-361, S. 20, 29; P.A. 91-337, S. 8, 15.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 added language re states that are members of the compact; P.A. 91-337 added provisions re legislative approval of agreement for the out-of-state disposal of low-level radioactive waste.

Sec. 22a-163s. Expenses. All expenses incurred by the council related to exercising its responsibilities under subsections (b) and (c) of section 16-50j and sections 22a-134cc, 22a-134ff and 22a- 163 to 22a-163u, inclusive, other than expenses covered by the application fee and assessment provided for by subsections (b) and (c) of section 16-50j and sections 22a-134cc, 22a-134ff and 22a-163 to 22a-163u, inclusive, shall be eligible for payment as expenses provided for by section 22a-132a.

(P.A. 87-540, S. 21, 26.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987.

Sec. 22a-163t. Payments of assessments or negotiated incentives to municipalities by operators of regional low-level radioactive waste disposal facilities. Reports of negotiation to council. (a) The operator of a low-level radioactive waste facility constructed and operated pursuant to subsections (b) and (c) of section 16-50j and sections 22a-134cc, 22a-134ff and sections 22a-163 to 22a-163u, inclusive, shall pay an assessment pursuant to subsection (b) of this section, the costs of mitigating the social and economic impacts of the facility negotiated pursuant to subsection (c) of this section and the costs of providing the services, compensation and incentives specified in subsection (e) of this section.

(b) Within thirty days following the end of each calendar quarter, the operator of a low-level radioactive waste facility shall report to the chief elected official of the municipality or municipalities in which such facility is located, the chief elected official of the neighboring municipality most affected by the facility as determined by the council pursuant to subsection (c) of section 16-50j, and to the commissioner on a form furnished by said commissioner, the gross receipts of such facility in such calendar quarter. The operator shall remit to the municipality in which the facility is located and to the neighboring municipality most affected by the facility, with such form, payment in an amount determined in accordance with the proportion due to each municipality as determined by the council and with the sum of the amounts derived by applying the percentages specified in the following table to the applicable portions of the quarterly gross receipts:

Quarterly Gross Receipts	Payment as Per Cent

Over	Not Exceeding	of Gross Receipts
$ 0	$1,250,000	10%
1,250,000	2,500,000	5%
2,500,000		2.5%

When the council grants a certificate for a low-level radioactive waste facility, it shall specify the proportion of the quarterly assessment of the gross receipts at the facility that shall be paid by the operator to the municipality in which the facility is located and to the neighboring municipality most affected by the facility. The council's decision on the proportion to be paid to each municipality shall be based on the expected proportionate impacts of the facility on each of the municipalities. The permanent members of the council shall adopt regulations, in accordance with the provisions of chapter 54, specifying procedures to be followed and factors to be considered in making such a decision, except that notice may be published not later than July 1, 1989. If the low-level radioactive waste facility is located in more than one municipality, such operator shall report to each such municipality and such payment shall be made pro rata, based on the proportionate areas of the facility in each such municipality.

(c) The local project review committee shall negotiate directly with the applicant concerning social and economic impacts of the facility on the municipality in which it is to be located and on the neighboring municipality that would be most affected by the facility and on issues concerning the cost of mitigating those impacts. The total cost of mitigating the social and economic impacts shall not exceed one hundred fifty thousand dollars. The impacts and mitigation measures may include, but are not limited to: (1) Purchase of a green-belt buffer around the proposed facility for safety and aesthetics; (2) development of open space and recreational facilities for the town; (3) payment for fire equipment which may be required because of the proposed facility and (4) payment of road repair costs resulting from increased use of local roads caused by the proposed facility. Any agreement reached through such negotiation shall be consistent with the interests and purposes of subsections (b) and (c) of section 16-50j and sections 22a-134cc, 22a-134ff and 22a-163 to 22a-163u, inclusive. Negotiations shall not begin until decisions are rendered by local bodies pursuant to subsection (b) of section 22a-163n, and negotiations shall be completed within sixty days.

(d) The applicant and the committee shall each file a report with the council before the conclusion of the council's public hearing stating the items of negotiation and points of agreement and disagreement. After the filing of such reports, the council may meet with the applicant and the committee to discuss the negotiations and reports. The council shall be the sole arbitrator of disputes arising from the negotiations. The council shall consider the negotiations and reports as part of the application. The council's decision shall state the negotiated items it has accepted and incorporated into any approval and those negotiated items it has rejected and the reasons therefor.

(e) The operator of a low-level radioactive waste facility shall pay the costs of and provide the following services, compensation and incentives: (1) Annual payments to the municipality in which the facility is located in an amount equal to the amount the municipality would have received in taxes on the property for the facility if the property were industrial; (2) the cost to the municipality of hiring a full-time employee or the equivalent thereof to provide oversight and on-site inspection of the facility; (3) the costs of annually obtaining a sample from each well which supplies drinking water within one mile of the facility as directed by the commissioner. The operator shall pay the costs of water sample testing to determine if any contaminants that might reasonably be expected to come from the facility are present

in the samples; (4) payments to each person who owns property within two miles of the facility at the time the site is selected by the service for a facility, pursuant to subsection (b) of section 22a-163d, and who sells such property after selection of the site but less than five years after the facility begins operation. The amount of the payment shall be the difference, as determined by the council, between the sales price negotiated by the owner and the value of the property if no facility was at the site, provided the owner has made a good faith effort to obtain a fair price for the property and the price is lower than the value of the property if no facility was at the site. The operator shall arrange for and pay for an independent assessment of the value of each property within two miles of the site of the proposed facility at the time the site is selected for a facility by the service. The permanent members of the council shall adopt regulations, in accordance with the provisions of chapter 54, except that notice may be published not later than July 1, 1989, specifying procedures to be followed and factors to be considered in objectively determining the difference between the sales price for a property and the value of the property if no facility was at the site and in determining if the property owner has made a good faith effort to obtain a fair price for the property.

(P.A. 87-540, S. 25, 26: P.A. 88-361, S. 22, 29; P.A. 91-337, S. 9, 15.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 amended Subsec. (a) by eliminating provisions re payment of negotiated incentives and adding provision re payments for mitigating social and economic impacts and for services, compensation and incentives, amended Subsec. (b) by adding provision regarding reporting of receipts to neighboring municipality most affected by the facility and adding provision regarding proportions of gross receipts to be paid to municipalities, amended Subsec. (c) by adding provision re social and economic impacts and eliminating Subdiv. (1) concerning payments for diminution of property values from factors that may be considered as mitigation measures and added Subsec. (e) regarding costs that are to be paid by operators; P.A. 91-337 in Subsec. (b) made technical change in the formula by which the operator pays an assessment to the municipality or municipalities affected by the facility.

Waste Advisory Committee. (a) There is established a Low-Level Radioactive Waste Advisory Committee to advise the Connecticut Hazardous Waste Management Service on the suitability of sites for the management of low-level radioactive waste. The committee shall be comprised of eleven members as follows: Two members representing industries which generate low-level radioactive waste; one representing municipalities with a population of less than fifteen thousand persons; one representing municipalities with a population of more than fifteen thousand persons; one representing a citizen environmental group knowledgeable about reduction of low-level radioactive waste, one representing business, one representing an institution, a geologist and three public members. The members shall be appointed as follows: Three by the governor, two by the speaker of the house of representatives, two by the president pro tempore of the senate, two by the minority leader of the house of representatives and two by the minority leader of the senate.

(b) The committee shall be appointed not more than thirty days after the designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission. The committee shall elect its own chairman and such other officers as it may deem appropriate. Members of said committee shall receive no compensation for their services thereon but shall be reimbursed for necessary expenses in the performance of their duties.

(P.A. 87-540, S. 7, 26; P.A. 88-361, S. 7, 29.)

History: P.A. 87-540 effective upon designation of Connecticut as a host state by the Northeast Interstate Low-Level Radioactive Waste Commission, i.e. December 23, 1987; P.A. 88-361 made technical changes and amended Subsec. (b) by eliminating the requirement the governor appoint the chairman.

Sec-163v. Entry upon private property. After giving reasonable notice to any affected property owner, the chairman of the Connecticut Hazardous Waste Management Service or his agent may enter upon private property for the purpose of conducting surveys, inspections or geological investigations for

selecting any potential site for a regional low level radioactive waste facility. After giving reasonable notice to any affected property owner, the chair*man or his agent may enter private property to evaluate any site for a regional low-level radioactive waste facility including, but not limited to, performing borings, environmental monitoring, conducting tests, taking samples or undertaking other activities related thereto. He shall use care in any entry so that no unnecessary damage shall result. The service shall pay damages to the owner of any property from appropriations or other funds made available to it for such purposes for any damage or injury the chairman or his agent causes such owner by such entrance and use. If entry to any property for performing borings, environmental monitoring, conducting tests, taking samples or undertaking other activities is refused, the chairman shall assess damages in the manner provided for by section 13a-73, and, at any time after such assessment has been made by said chairman, may enter such property. If the owner accepts such assessment of damages, he shall notify the chairman in writing. The chairman shall pay such sum to the owner within thirty days or, after the expiration of the thirty days, shall pay the sum with interest at six per cent. If the owner is aggrieved by such assessment, he shall notify the chairman in writing and may appeal to any court within its jurisdiction for a reassessment of such damages within six months from the date said chairman forwarded the assessment to the owner. The provisions of this subsection shall not be construed to limit or modify any rights of entry upon property otherwise provided by law.

(P.A. 88-361, S. 27, 29.)

Sec. 22a-163w. Custodial agency. Duties. (a) The service is designated as the custodial agency. The service shall take all actions necessary to execute the responsibilities of the custodial agency for a low-level radioactive waste facility as specified by the United States Nuclear Regulatory Commission.

(b) The commissioner of public works shall initiate actions to a acquire, through purchase or otherwise, the site selected by the Connecticut Hazardous Waste Management Service as the site for a low-level radioactive waste facility as specified in subsection (b) of section 22a- 163d. The commissioner of public works shall initiate such actions when notified by the service that the site has been selected. Acquisition of the site shall not be subject to review by the State Properties Review Board.

(c) The commissioner of public works shall have the power to condemn real property, in accordance with the procedures set forth in sections 8-129 to 8-133, inclusive, for the purpose of siting a regional low-level radioactive waste facility, provided such property is selected by the service as the site for a low-level radioactive waste facility.

(d) The service shall monitor and oversee the activities of the person selected by the service, pursuant to subsection (b) of section 22a-163d, to develop and operate a regional low-level radioactive waste facility. The service shall approve any and all disposal fees and surcharges proposed by the person selected by the service. The service shall approve higher disposal fees to be charged to all generators of low-level radioactive waste, which utilize the facility, but which have not been assessed, have not paid full assessments or which have not remitted payments through previous assessments established under subsection (a) of section 22a- 164. Before approving any and all disposal fees and surcharges, the service shall consult with generators of low-level radioactive waste.

(e) The commissioner of public works, in consultation with the commissioner of environmental protection and in accordance with all applicable state and federal laws and regulations, shall lease the site to the service for a period of not less than seven years. The service, subject to the approval of the commissioners of environmental protection and public works, shall thereafter lease the site to the person selected by the service, in accordance with all applicable state and federal laws and regulations, if such

person has: (1) Obtained a certificate from the council as required in section 22a-163g, (2) receive such approval, certificates and licenses which the commissioner of environmental protection may require pursuant to subsection (b) of section 22a-163f, (3) received a license from the Nuclear Regulatory Commission to operate a low-level radioactive waste facility, and (4) if applicable, received necessary approvals for the management of mixed waste at the regional low level radioactive waste facility from the Nuclear Regulatory Commission and the United States Environmental Protection Agency or the state of Connecticut. If directed by the secretary of the office of policy and management the service shall lease the site to the person selected by the service prior to the full compliance of the provisions pursuant to this section. Each lease between the service and the person selected by the service shall be for a period not longer than seven years and may be renewed. Any renegotiation or renewal of any lease pursuant to this section shall be subject to the same consultation and accord as the original lease. Any such lease and the renewal of such lease shall not be subject to review by the State Properties Review Board.

(P.A. 88-361, S. 26, 29; P.A. 91-337, S. 10, 15.)

History: P.A. 91-337 in Subsec. (a) changed the custodial agency from the department of public works to the service, in Subsec. (b) exempted the acquisition of the site for the facility from review by the properties review board, in Subsec. (d) deleted existing language and provided for specific monitoring by the service of the person selected by the service and added a new Subsec. (e) providing for the leasing of the facility to the person selected by the service.

Sec. 22a-163x. Reclassified low-level radioactive waste. To the extent allowed under federal law, waste classified as low-level radioactive waste by the United States Nuclear Regulatory Commissioner or before June 30, 1991, shall be stored or disposed of at a low-level radioactive waste facility licensed by the Nuclear Regulatory Commission or an Agreement State, regardless of any reclassification of such material as below regulatory concern. Nothing in this section shall be construed to prohibit a licensee of the United States Nuclear Regulatory Commission or an Agreement State from storing short-lived radioactive materials for decay and disposal by conventional means provided this practice is specifically authorized in such facility's license.

(P.A. 91-326, S. 2, 4.)

Sec. 22a-163y. Termination of low-level radioactive waste management plan approved November, 1990. New bidding procedure for selection of contractor to conduct new site selection. (a) The Connecticut Hazardous Waste Management Service shall, as of May 5, 1992, terminate all activities associated with the plan approved by the service in November of 1990 for the selection of a site for a low-level radioactive waste disposal facility, pursuant to sections 22a-163 to 22a-163w, inclusive, and proceed with the development of a new management plan with additional siting criteria, as specified in section 22a-163b.

(b) As of May 5, 1992, the service shall commence a new bidding procedure for the selection of a contractor to conduct the new site selection. The service shall not select a person, pursuant to the provisions of subsection (b) of section 22a-163d, to submit an application to the Siting Council for a certificate of public safety and necessity pursuant to section 22a-163h until the plan required by subsection (a) of this section has been approved by the general assembly pursuant to section 22a-163aa.

(P.A. 92-45, S. 4, 7.)

Sec. 22a-163z. Plan for siting of temporary monitored retrievable low-level radioactive waste facility. The Connecticut Hazardous Waste Management Service shall develop and prepare a plan for

the siting of a temporary monitored retrievable low-level radioactive waste facility. In developing the plar the service shall provide for a public hearing and for comment by the municipalities and the public prior to the adoption of the plan. Such plan shall include, but not be limited to, the following: (1) An analysis of the need for establishing a temporary facility; (2) the criteria or factors to be considered in selecting a site for a temporary facility; (3) the compensation to be provided a municipality or municipalities where the facility is to be located and the neighboring municipality most affected by the facility; (4) the appropriate role of the Hazardous Waste Management Service in the design, siting, construction and operation of the temporary facility; (5) the role of the local project review committee in the design, siting, construction and operation of the temporary facility;
(6) the process and procedures by which the municipality or municipalities where the temporary facility is to be located may participate and comment in the design, siting, construction and operation of a temporary facility; and (7) the appropriate design and construction of a temporary facility, including an analysis of the use of engineering barriers in such temporary facility.

(P.A. 92-45, S. 5, 7.)

Sec. 22a-163aa. Legislative approval of low-level radioactive waste management plans. Procedures. On February 1, 1993, the Connecticut Hazardous Waste Service shall submit to the joint standing committees of the general assembly having cognizance over matters relating to energy and public utilities and the environment: (1) The new management plan for selection of a site for a low-level radioactive waste disposal facility, which new plan shall take into consideration the changed selection criteria established in section 22a-163b and (2) the proposed plan for the establishment of a temporary monitored retrievable low level radioactive waste facility, established in section 22a-163z. Not later than sixty calendar days after receipt of each proposed plan required pursuant to sections 22a-161d, 22a-163b, 22a-163c, 22a-163y, 22a-163z and this section, such joint committees shall approve, reject or modify such proposed plan or plans. If the joint standing committees concur, the general assembly shall by resolution adopt or reject the plan or plans. If the joint standing committees do not concur, the committee chairmen shall appoint a committee on conference which shall be comprised of three members from each such joint standing committee. At least one member appointed from each such joint standing committee shall be a member of the minority party. The report of the committee on conference shall be made to each such joint standing committee, which shall vote to accept or reject the report. The report of the committee on conference may not be amended. If a joint standing committee rejects the report of the committee on conference, the proposed plan or plans as proposed by the service shall be deemed rejected. If the joint standing committees accept the report, the general assembly shall by resolution adopt or reject the proposed plan or plans. If the joint standing committees and the general assembly do not act within sixty calendar days, the proposed plan or plans shall be deemed approved. If the joint standing committees or the general assembly reject the proposed plan or plans, the service shall resubmit the plan or plans with appropriate modifications not later than the first day of the next legislative session. The resubmitted plan or plans shall be approved, rejected or modified in accordance with the provisions of this section.

(P.A. 92-45, S. 6, 7.)

Sec. 22a-164. Low-level radioactive waste account. (a) There is established a low-level radioactive waste account, which shall be a separate, non lapsing account within the general fund and which shall be financed through assessments of generators of low-level radioactive waste. The department of environmental protection shall assess all Nuclear Regulatory Commission licensees operating nuclear power generating facilities in the state for a total of one million dollars during the fiscal year ending July 1, 1989. The department shall develop an equitable method of assessing the licensees for their reasonable pro-rata share of such initial assessment. All moneys within the account shall be invested by the state treasurer in accordance with established investment practices and all interest earned by

such investments shall be returned to the account. On and after July 1, 1989, all moneys in said accoun and any moneys assessed by the department of environmental protection, pursuant to this section, to be credited to said account shall be credited to the Low-Level Radioactive Waste Management Fund, established in section 22a-165a.

(b) Moneys in the account shall be expended by the commissioner of environmental protection, with the approval of the secretary of the office of policy and management, only to assist the state in fulfilling the responsibilities under the Northeast Interstate Low-Level Radioactive Waste Compact to provide for the management of low-level radioactive waste pursuant to the provisions of said compact and the provisions of subsections (b) and (c) of section 16-50j and sections 22a-134cc, 22a-134ff, 22a-134gg, 22a-13411 and sections 22a-163 to 22a-163v, inclusive.

(P.A. 88-243, S. 1, 3; P.A. 89-330, S. 1, 9.)
History: P.A. 89-330 added provision in Subsec. (a) re transfer o moneys to low-level radioactive waste fund and added Secs. 22a-134qq, 22a-13411 and 22a-163v to provisions of Subsec. (b).

Sec. 22a-165. Low-Level Radioactive Waste Management Fund: Definitions. As used in section 22a-165 to 22a-165f, inclusive:
(1) "Low-level radioactive waste generator" or "generator" shall mean any person, as defined in section 22a- 163a, whose possession or utilization of by-product, source or special nuclear material results in the production of low-level radioactive waste which was generated in Connecticut and whose waste disposal is regulated under Title 10, Code of Federal Regulations, Part 61;

(2) "Low-level radioactive waste" shall mean such waste as defined in subdivision (9) of section 22a-163a;

(3) "State's expenses" shall mean those expenses associated with low-level radioactive waste incurred by the state in fulfilling its responsibilities under the Northeast Interstate Low-Level Radioactive Waste Compact and under the provisions of sections 22a-134cc, 22a-134ff, 22a-134gg, 22a-134ll and sections 22a-163 to 22a-163v, inclusive, other than the purchase of a low-level radioactive waste management site, facility construction, operation costs and maintenance costs and shall include grants to municipalities pursuant to subsection (b) of section 22a-163d;

(4) "Secretary" shall mean the secretary of the office of policy and management; and

(5) "Department" shall mean the department of environmental protection.

(P.A. 89-330, S. 2, 9; P.A. 91-337, S. 11, 15; June 26 Sp. Sass. P.A. 91-1, S. 3, 4; P.A. 93-174, S. 1, 6.)
History: P.A. 91-337 in Subdiv. (3) redefined "state's expenses"; June 26 Sp. Sass. P.A. 91-1 amended the definition of "state's expenses" to include grants to certain municipalities pursuant to Sec. 22a-163d; P.A. 93-174 redefined "Low-level radioactive waste generator", effective July 1, 1993; the new language "FOR THE PURPOSES OF SECTIONS 22a-165 TO 22a-165f, INCLUSIVE," was deleted editorially by the revisors from the beginning of Subdiv. (1) because it was redundant in view of the applicability language in the opening phrase of this section.

Sec. 22a-165a. Low-Level Radioactive Waste Management Fund: Established. (a) There is established a fund to be known as the "Low-Level Radioactive Waste Management Fund". The fund may contain any moneys required by law to be deposited in the fund and shall be held by the treasurer separate and apart from all other moneys, funds and accounts. All moneys within the fund shall be invested by the state treasurer in accordance with established investment practices and all interest earned by such investments shall be returned to the fund. Any balance remaining in said fund at the end of any fiscal year shall be carried forward in said fund for the fiscal year succeeding.

(b) Moneys in the fund shall be expended by the commissioner of environmental protection, with the approval of the secretary, only to pay the state's expenses, costs of acquiring an option to purchase land for a low-level radioactive waste management site and grants to municipalities pursuant to subsection (b) of section 22a-163d.

(P.A. 89-330, S. 3, 9; June 26 Sp. Sass. P.A. 91-1, S. 2, 4.)
History: June 26 Sp-Sess. P.A. 91-1 amended Subsec. (b) to provide for grants to certain municipalities pursuant to Sec. 22a- 163d.

Sec. 22a-165b. Low-Level Radioactive Waste Management Fund: Assessment of generators. Reports to department. Payment of assessments. Objections. Penalties. (a) The department shall assess all generators in the state for a total of three million one hundred thousand dollars to pay the state's expenses. Within sixty days of June 29, 1989, each generator and each person required to register with the department pursuant to section 22a-148 shall provide the department with all relevant information as required by the department, on forms supplied by the department, concerning their generation and management of low-level radioactive waste and of radioactive materials, as defined in section 22a-148, during the 1988 calendar year. Any generator and each person required to register with the department pursuant to section 22a-148 who wilfully fails to provide the department with said information or knowingly makes any false statement or representation on any report or any form shall be fined no more than twenty-five thousand dollars and in addition no more than one thousand dollars for each day during which such violation continues.

(b) Upon receipt of the information required from the generators in subsection (a) of this section the department shall give to each generator a statement which shall include the generator's prorata assessment. Such share shall be calculated by multiplying the generator's percentage share of the total volume of low-level radioactive waste received for burial in the calendar year 1988 by the total assessment of the state's expenses. Each generator shall pay its assessment to the department on or before the due date determined by the department, in consultation with the secretary.

(c) Any generator may object to an assessment, by filing with the department, not later than thirty days after receiving its assessment, a petition stating the amount of the assessment to which it objects and the grounds upon which it claims such assessment is excessive, erroneous, unlawful or invalid. Upon the request of the generator filing the petition, the department shall hold a hearing. After reviewing the generator's petition and testimony, if any, the department shall issue its order in accordance with its findings.

(d) The department shall deposit all payments received under this section with the state treasurer. The moneys so deposited shall be credited to the Low-Level Radioactive Waste Management Fund.

(e) Any assessment unpaid after the due date under subsection (b) of this section shall be subject to interest at the rate of one and one-fourth per cent per month or fraction thereof and any generator shall be assessed a penalty of no more than twenty-five thousand dollars for said violation and in addition no more than one thousand dollars for each day during which such violation continues, after the due date.

(P.A. 89-330, S. 4, 9; P.A. 90-271, S. 15, 24.)
History: P.A. 90-271 made a technical change in Subsec. (e).

Sec. 22a-165c. Low-Level Radioactive Waste Management Fund: Assessment of generators. Payment and exemption from assessments. Objections. Penalties. (a) For each fiscal year, beginning with the fiscal year ending June 30, 1991, the secretary in consultation with the chairperson

of the department of public utility control, the commissioner of environmental protection, the executive officer of the Connecticut Hazardous Waste Management Service, the chairperson of the Connecticut Siting Council and representatives of low-level radioactive waste generators, designated by the commissioner, shall determine the state's expenses in carrying out its responsibilities. The secretary shall determine, on or before February 1, 1990, and annually thereafter, the recommended total annual assessment based upon the state's anticipated expenses for the next fiscal year.

(b) The secretary shall, on or before February I, 1990, and annually there after, submit a report with his recommended assessment to the general assembly. Within thirty days of receipt of the recommended assessment, the general assembly shall approve, reject or modify the assessment as a whole by a majority vote of those present and voting on the matter. If the general assembly does not act within thirty days, the recommended assessment shall be deemed approved.

(c) The secretary shall provide the commissioner of environmental protection with the total approved assessment of the state's expenses for the next fiscal year by March 15, 1990, and annually thereafter. On or before May 1, 1990, and annually thereafter, the department shall give to each generator a statement which shall include: (1) The total assessment of the state's expenses for the following fiscal year beginning July first of the same year, and (2) the proposed assessment against the generator for the following fiscal year beginning July first of the same year. Each generator shall pay its assessment to the department on or before July first of the same year or, if requested by the generator, in multiple payments as determined by the department, in consultation with the secretary.

(d) (1) For fiscal year 1993-1994, the commissioner shall assess the state's expenses proportionate to each generator's share of the total volume of low-level radioactive waste received at a disposal facility for disposal in the previous calendar year. Such proposed assessment shall be calculated by multiplying the generator's percentage share of the total volume of low-level radioactive waste received for disposal in the previous calendar year by the total assessment of the state's expenses. The total volume of low-level radioactive waste may be reduced by the amount generated by generators exempt from assessments pursuant to subsection (h) of this section.

(2) For fiscal year 1994-1995, and each subsequent fiscal year, the commissioner shall annually assess the state's expenses proportionate to each generator's percentage share of the total volume and total radioactivity of low-level radioactive waste generated within the state. Each generator's percentage share shall be calculated by dividing the generator's volume by the sum of all of the generators' volumes and by dividing the generator's radioactivity by the sum of all of the generators' radioactivity. Each generator's volume shall be the sum of that generator's volume shipped for disposal during the previous calendar year and that generator's volume in storage which was packaged during the previous calendar year in accordance with 1993 disposal criteria established by the Nuclear Regulatory Commission and which requires disposal pursuant to Title 10, Code of Federal Regulations, Part 61. Each generator's radioactivity shall be the sum of that generator's radioactivity shipped for disposal during the previous calendar year and that generator's radioactivity in storage which was packaged during the previous calendar year in accordance with 1993 disposal criteria established by the Nuclear Regulatory Commission and which requires disposal pursuant to Title 10, Code of Federal Regulations, Part 6 1. Each generator shall estimate the volume and radioactivity of waste which is not packaged for disposal within one year of being generated based on the volume and radioactivity of similar waste generated by the same generator in prior years, provided if such waste is a new waste stream, each generator shall estimate the volume and radioactivity of such waste based on the volume and radioactivity of similar waste generated by other generators in prior years. The generator's percentage share of the total volume shall be multiplied by sixty per cent of the total approved assessment amount, and the generator's percentage share of the total radioactivity shall be multiplied by forty per cent of the total

approved assessment amount. The sum of the two resultants shall be that generator's share of the tota approved assessment amount. A generator's volume or radioactivity shall not include waste which was included in an assessment calculation for a previous fiscal year. The total volume and total radioactivity of low-level radioactive waste may be reduced by the amount generated by generators exempt from assessments pursuant to subsection (h) of this section.

(e) Any generator may object to its individual assessment, by filing with the department, not later than September fifteenth of the year of the assessment, a petition stating the amount of the assessment to which it objects and the grounds upon which it claims such assessment is excessive, erroneous, unlawful or invalid. Upon the request of the generator filing the petition, the department shall hold a hearing in accordance with chapter 54. After reviewing the generator's petition and testimony, if any, the department shall issue its order in accordance with its findings.

(f) The department shall deposit all payments received under this section with the state treasurer. The moneys so deposited shall be credited to the Low-Level Radioactive Waste Management Fund.

(g) Any assessment unpaid after the due date under subsection (c) of this section shall be subject to interest at the rate of one and one-fourth per cent per month or fraction thereof and any generator shall be fined no more than twenty-five thousand dollars for said violation and in addition no more than one thousand dollars for each day during which such violation continues, after the due date.

(h) The provisions of this section shall not apply to any generator of low-level radioactive waste which has a license from the United States Nuclear Regulatory Commission to possess special nuclear material and which certifies to the commissioner that it will not generate low-level radioactive waste or material which is designated as low-level radioactive waste requiring disposal after January 1, 1993. Certification shall be submitted to the commissioner not later than May first in 199 1, and in assessment years thereafter, not later than April first. If, as a result of delays in facility decontamination and associated low-level radioactive waste disposal, a generator or its successor-in-interest, or an owner of a facility contaminated with low-level radioactive waste or material designated as low-level radioactive waste, which has been exempted from assessments pursuant to this subsection does generate low-level radioactive waste or materials after January 1, 1993, the commissioner shall assess the generator, successor-in-interest or owner for disposal of the waste at twice the assessment charge that would have applied in each year for which an exemption was claimed to that volume of waste which is not disposed of by the generator. This assessment shall be based upon information provided pursuant to section 22a-165b. The generator, successor-in-interest or owner shall not be required to pay double assessments if nonachievement of the January 1, 1993, date is due to state or federal actions which are beyond the control of the generator, successor-in-interest or owner, as deter*mined by the commissioner, and which could not have been reasonably anticipated at the time of the certification. In that event, the generator, successor-in-interest or owner, shall be required to pay an amount equal to twenty per cent of the per cubic foot assessment charge that would have applied in each year for which an exemption was claimed to that volume of waste which is not disposed of by the generator.

(P.A. 89-330, S. 5, 9; P.A. 91-63, S. 1, 2; 91-337, S. 12, 15; P.A. 92-235, S. 5, 6; P.A. 93-174, S. 2, 6.)

History: P.A. 91-63 added new Subsec. (g) exempting certain generators from the assessment; P.A. 91-337 in Subsec. (c) added provision exempting certain generators from the assessment and authorized payment of assessment in multiple payments upon generator's request; P.A. 92-235 amended Subsec. (g) to specify the amount of assessment to be applied to certain material for which the state becomes responsible after January 1, 1993; P.A. 93-174 amended Subsec. (c) by deleting provisions regarding the calculation of the assessment, added new Subsec. (d) providing that assessment calculation for 1993-1994 be based on volume of waste received for burial and the assessment calculation for 1994-1995 and thereafter be based sixty per cent on volume and forty per cent on radioactivity of waste shipped for disposal and in storage, relettered Subsecs. (d) to (g) as (e) to (h), amended Subsec. (e) to specify a generator may only object to its own assessment and that

hearings must be held in accordance with chapter 54, amended Subsec. (h) by deleting references to the state becomin responsible for managing waste and deleting "per cubic foot" regarding the assessment charge, effective July 1, 1993.

Sec. 22a-165d. Low-Level Radioactive Waste Management Fund: Reports of shipments and amounts of waste received for burial. Penalties. (a) Each generator and each person required to register with the department pursuant to section 22a-148 shall report to the department each low-level radioactive waste shipment and shall submit a copy of the shipping manifest within thirty days of any shipment and a copy of the receipt of shipment from the disposal site, within ninety days of receipt for burial. Not later than April 1, 1990, and annually thereafter, each generator shall submit a report to the department on the total volume and radioactivity of low-level radioactive waste which was generated during the previous calendar year and will require disposal pursuant to Title 10, Code of Federal Regulations, Part 61. All such reports and information submitted shall be provided on forms supplied by the department and shall be maintained for seven years from the date such waste is disposed. Each generator and each person required to register with the department pursuant to section 22a-148 shall also provide the commissioner with any other information as he may require. The commissioner may audit a generator's records of volume and radioactivity and inspect a generator's facility to verify such records.

(b) Any generator and each person required to register with the department pursuant to section 22a-148 who (1) wilfully fails to prepare a shipment report or annual shipment in accordance with subsection (a) of this section, (2) knowingly makes any false material statement or representation on any report or any form supplied by the department in accordance with this section or (3) wilfully fails to maintain or knowingly destroys, alters or conceals any record required to be maintained under this section or regulations promulgated pursuant to this section shall be fined no more than twenty-five thousand dollars and in addition no more than one thousand dollars for each day during which such violation continues.

(P.A. 89-330, S. 6, 9; P.A. 93-174, S. 3, 6.)

History: P.A. 93-174 amended Subsec. (a) by changing the subject of the report from amount of waste received for burial to volume and radioactivity of waste requiring disposal pursuant to federal regulations, by specifying that reports be maintained for seven years and that the commissioner may audit records and inspect facilities, effective July 1, 1993.

Sec. 22a-165e. Low-Level Radioactive Waste Management Fund: Civil penalty procedures The commissioner may hold a hearing in accordance with chapter 54 for any suspected violation of sections 22a-165 to 22a-165f, inclusive. Any person who violates any provision of said sections shall be assessed a civil penalty of not more than twenty-five thousand dollars for each violation and, in addition, not more than one thousand dollars for each day the violation continues. Any amount recovered shall be deposited in the general fund and credited to the Low-Level Radioactive Waste Management Fund established by section 22a-165a.

(P.A. 89-330, S. 7, 91 P.A. 93-174, S. 4, 6.)

History: P.A. 93-174 replaced existing provision re civil penalty procedures with new provision imposing civil penalty up to $25,000 plus $1,000 per day for any violation of Secs. 22a-165 to 22a-165f, inclusive, effective July 1, 1993.

Sec. 22a-165f. Low-Level Radioactive Waste Management Fund: Regulations. The department of environmental protection may adopt regulations, in accordance with chapter 54, to carry out the purposes of sections 22a-165 to 22a-165e, inclusive. Nothing in said sections shall preclude the department of environmental protection from acting prior to the adoption of regulations adopted pursuant to said sections.

(P.A. 89-330, S. 8, 9.)

Sec. 22a-165g. Establishment of a formula to finance the acquisition of a low-level radioactive waste facility. (a) The secretary of the office of policy and management, in consultation with representatives of generators of low-level radioactive waste, shall establish a formula to finance the acquisition of land associated with the establishment of a low-level radioactive waste facility or the payment of the state's share of the cost of an agreement for out-of-state management of low-level radioactive waste, or both. Such formula shall provide for the assessment of generators of low-level radioactive waste to produce an amount of revenues equal in the aggregate to the amount of debt service on bonds issued to establish the facility or pay the state's share of the cost of an agreement for out-of-state management of low-level radioactive waste.

(b) The office shall make such assessments if the state intends to locate a low-level radioactive waste facility within the state or if the state enters into a binding agreement or agreements for the out-of-state management of all low-level radioactive waste generated in this state for which the state is responsible under the Low-Level Radioactive Waste Policy Amendments Act of 1985, P. L. 99-240, in accordance with section 22a-163r.

(c) Such assessments shall be made against generators whose low-level radioactive waste is received at a disposal facility beginning on a date determined in accordance with the formula, established in subsection (a) of this section, on and after the low-level radioactive waste is first received at a disposal facility. Payments by the generators shall be deposited in the general fund.

(d) The provisions of this section shall not apply to generators of low-level radioactive waste which will not generate waste or material which is designated as low-level radioactive waste requiring disposal after January 1, 1993, if such generator complies with the provisions of subsection (h) of section 22a-165c.

(P.A. 91-337, S. 14, 15; P.A. 93-174, S. 5, 6.)

History: P.A. 93-174 substituted reference to Subsec. (h) of Sec. 22a-165c for reference to Subsec. (g), effective July 1, 1993.

Section 4a. Section 22a-152 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) 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.

(b) The Commissioner of Environmental Protection, upon execution of an agreement between the Governor and the government of the United States in accordance with subsection (a) of this section, shall adopt regulations, in accordance with the provisions of Chapter 54, to establish a fee-based program for the control of radiation hazards sufficient to protect public health and safety with respect to the materials within the state covered by such agreement. Such regulations shall include a fee structure which shall demonstrate that the state program, upon receiving full delegation, is adequately funded to cover all costs to the state of adopting and administering such program.

(c) There is established a fund to be know as the "Agreement State Management Fund." The fund may contain fees collected pursuant to the provisions of subsection (b) and shall be held by the Treasurer separate and apart from all other moneys, funds and accounts. All moneys within the fund shall be invested by the State Treasurer in accordance with established investment practices and all interest earned by such investments shall be returned to the fund. Any balance remaining in said fund at the end of any fiscal year shall be carried forward in said fund for the fiscal year succeeding.

(d) Moneys in the fund shall be expended by the Commissioner of Environmental Protection only to pay expenses incurred by the state in implementing and maintaining U.S. Nuclear Regulatory Commission Agreement State Status. All monies deposited in this account shall be deemed appropriated for this purpose.

Section 4b. Section 22a-157 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) 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-151 to 22a-158, inclusive.

(b) Any person, firm or corporation which directly or indirectly causes pollution or contamination or potential pollution or contamination of any land, water, or air resources of the state through the discharge, spillage, uncontrolled loss, leakage, or leaching of radioactive material or radioactive waste, shall be liable for all costs and expenses incurred by the commissioner in containing, removing, cleaning, or mitigating such pollution or contamination. Nothing herein shall preclude the commissioner from seeking such additional compensation that a court may award, including punitive damages. Upon the request of the commissioner, the attorney general shall bring a civil action to recover all such costs and expenses.

(c) Any person, firm, corporation or municipality which contains or removes or otherwise cleans or mitigates the effects of radioactive material or radioactive wastes resulting from any discharge, spillage, uncontrolled loss, leakage or leaching of radioactive material shall be entitled to reimbursement from any person, firm or corporation for the reasonable costs expended for such containment, removal, cleaning, or mitigation, if such pollution or contamination resulted from the negligence or other actions or inactions of such person, firm, or corporation. When such pollution or contamination results from the joint negligence or recklessness of two or more parties, persons, firms or corporations, each shall be jointly and severally liable.

Section 4c. Sec. 22a-6(a) of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The commissioner may: (1) Adopt, amend or repeal, in accordance with the provisions of chapter 54, such environmental standards, criteria and regulations, and such procedural regulations as are necessary and proper to carry out his functions, powers and duties; (2) enter into contracts with any person, firm, corporation or association to do all things necessary or convenient to carry out the functions, powers and duties of the department; (3) initiate and receive complaints as to any actual or suspected violation of any statute, regulation, permit or order administered, adopted or issued by him. The commissioner shall have the power to hold hearings, administer oaths, take testimony and subpoena witnesses and evidence, enter orders and institute legal proceedings including, but not limited to, suits for injunctions, for the enforcement of any statute, regulation, order or permit administered, adopted or issued by him; (4) in accordance with regulations adopted by him, require, issue, renew, revoke, modify or deny permits, under such conditions as he may prescribe, governing all sources of pollution in Connecticut within his jurisdiction; (5) in accordance with constitutional limitations, enter at all reasonable times, without liability, upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of any statute, regulation, order or permit administered, adopted or issued by him and the owner, managing agent or occupant of any such property shall permit such entry, and no action for trespass shall lie against the commissioner for such entry, or he may apply to any court having criminal jurisdiction for a warrant to inspect such premises to determine compliance with any statute, regulation, order or permit administered, adopted or enforced by him, provided any information relating to secret processes or methods of manufacture or production ascertained by the commissioner during, or as a result of, any inspection, investigation, hearing or otherwise shall be kept confidential and shall not be disclosed except that, notwithstanding the provisions of subdivision (5) of subsection (b) of section 1-210, such information may be disclosed by the commissioner to the United States Environmental Protection Agency pursuant to the federal Freedom of

Information Act of 1976, (5 USC 552) and regulations adopted thereunder or, if such information is submitted after June 4, 1986, to any person pursuant to the federal Clean Water Act (33 USC 1251 et seq.); (6) undertake any studies, inquiries, surveys or analyses he may deem relevant, through the personnel of the department or in cooperation with any public or private agency, to accomplish the functions, powers and duties of the commissioner; (7) require the posting of sufficient performance bond or other security to assure compliance with any permit or order; (8) provide by notice printed on any form that any false statement made thereon or pursuant thereto is punishable as a criminal offense under section 53a-157b; (9) construct or repair or contract for the construction or repair of any dam or flood and erosion control system under his control and management, make or contract for the making of any alteration, repair or addition to any other real asset under his control and management, including rented or leased premises, involving an expenditure of five hundred thousand dollars or less, and, with prior approval of the Commissioner of Public Works, make or contract for the making of any alteration, repair or addition to such other real asset under his control and management involving an expenditure of more than five hundred thousand dollars but not more than one million dollars; (10) by regulations adopted in accordance with the provisions of chapter 54 require the payment of a fee sufficient to cover the reasonable cost of the search, duplication and review of records requested under the Freedom of Information Act, as defined in section 1-200, and the reasonable cost of reviewing and acting upon an application for and monitoring compliance with the terms and conditions of any state or federal permit, license, registration, order, certificate or approval required pursuant to subsection (i) of section 22a-39, subsections (c) and (d) of section 22a-96, subsections (h), (i) and (k) of section 22a-424, and sections 22a-6d, 22a-32, 22a-134a, 22a-134e, 22a-135, 22a-148, 22a-149, 22a-150, 22a-154, 22a-174, 22a-174a, 22a-208, 22a-208a, 22a-209, 22a-342, 22a-345, 22a-361, 22a-363c, 22a-368, 22a-372, 22a-379, 22a-403, 22a-409, 22a-416, 22a-428 to 22a-432, inclusive, 22a-449 and 22a-454 to 22a-454c, inclusive, and Section 401 of the federal Clean Water Act, (33 USC 1341). Such costs may include, but are not limited to the costs of (A) public notice, (B) reviews, inspections

and testing incidental to the issuance of and monitoring of compliance with such permits, licenses, orders, certificates and approvals, and (C) surveying and staking boundary lines. The applicant shall pay the fee established in accordance with the provisions of this section prior to the final decision of the commissioner on the application. The commissioner may postpone review of an application until receipt of the payment. Payment of a fee for monitoring compliance with the terms or conditions of a permit shall be at such time as the commissioner deems necessary and is required for an approval to remain valid; and (11) by regulations adopted in accordance with the provisions of chapter 54, require the payment of a fee sufficient to cover the reasonable cost of responding to requests for information concerning the status of real estate with regard to compliance with environmental statutes, regulations, permits or orders. Such fee shall be paid by the person requesting such information at the time of the request. Funds not exceeding two hundred thousand dollars received by the commissioner pursuant to subsection (g) of section 22a-174, during the fiscal year ending June 30, 1985, shall be deposited in the General Fund and credited to the appropriations of the Department of Environmental Protection in accordance with the provisions of section 4-86, and such funds shall not lapse until June 30, 1986. In any action brought against any employee of the department acting within his scope of delegated authority in performing any of the above-listed duties, the employee shall be represented by the Attorney General.

Section 4d. Subsection (a) of Section 22a-6a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Any person who knowingly or negligently violates any provision of section 14-100b or 14-164c, subdivision (3) of subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5, 22a-6 or 22a-7, chapter 440, chapter 441, section 22a-69 or 22a-74, subsection (b) of section 22a-134p, section 22a-148, 22a-149, 22a-150, 22a-154, 22a-162, 22a-171, 22a-174, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184, 22a-190, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-225, 22a-231, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-358, 22a-359, 22a-361, 22a-362, 22a-365 to 22a-379, inclusive, 22a-401 to 22a-411, inclusive, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-471, or any regulation, order or permit adopted or issued thereunder by the Commissioner of Environmental Protection shall be liable to the state for the reasonable costs and expenses of the state in detecting, investigating, controlling and abating such violation. Such person shall also be liable to the state for the reasonable costs and expenses of the state in restoring the air, waters, lands and other natural resources of the state, including plant, wild animal and aquatic life to their former condition insofar as practicable and reasonable, or, if restoration is not practicable or reasonable, for any damage, temporary or permanent, caused by such violation to the air, waters, lands or other natural resources of the state, including plant, wild animal and aquatic life and to the public trust therein. Institution of a suit to recover for such damage, costs and expenses shall not preclude the application of any other remedies.

Section 4e. Subsection (a) of Section 22a-6b of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The Commissioner of Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, to establish a schedule setting forth the amounts, or the ranges of amounts, or a method for calculating the amount of the civil penalties which may become due under this section. Such schedule or method may be amended from time to time in the same manner as for adoption provided any such regulations which become effective after July 1, 1993, shall only apply to violations which occur after said date. The civil penalties established for each violation shall be of such amount as to insure immediate and continued compliance with applicable laws, regulations, orders and permits. Such civil penalties shall not exceed the following amounts:

(1) For failure to file any registration, other than a registration for a general permit, for failure to file any plan, report or record, or any application for a permit, for failure to obtain any certification, for failure to display any registration, permit or order, or file any other information required pursuant to any provision of section 14-100b or 14-164c, subdivision (3) of subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5, 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-45a, chapter 441, sections 22a-134 to 22a-134d, inclusive, subsection (b) of section 22a-134p, section 22a-148, 22a-149, 22a-150, 22a-154, 22a-157, 22a-158, 22a-171, 22a-174, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-231, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-405, inclusive, 22a-411, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-471, or any regulation, order, registration or permit adopted or issued thereunder by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than one thousand dollars for said violation and in addition no more than one hundred dollars for each day during which such violation continues;

(2) For deposit, placement, removal, disposal, discharge or emission of any material or substance or electromagnetic radiation or the causing of, engaging in or maintaining of any condition or activity in violation of any provision of section 14-100b or 14-164c, subdivision (3) of subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5, 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-45a, chapter 441, sections 22a-134 to 22a-134d, inclusive, section 22a-69 or 22a-74, subsection (b) of section 22a-134p, section 22a-162, 22a-171, 22a-174, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184, 22a-190, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-405, inclusive, 22a-411, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-471, or any regulation, order or permit adopted thereunder by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues;

(3) For violation of the terms of any final order of the commissioner, except final orders under subsection (d) of this section and emergency orders and cease and desist orders as set forth in subdivision (4) of this subsection, for violation of the terms of any permit issued by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues;

(4) For violation of any emergency order or cease and desist order of the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues;

(5) For failure to make an immediate report required pursuant to subdivision (3) of subsection (a) of section 22a-135, or a report required by the department pursuant to subsection (b) of section 22a-135, no more than

twenty-five thousand dollars per violation per day;

(6) For violation of any provision of the state's hazardous waste program, no more than twenty-five thousand dollars per violation per day;

(7) For wilful violation of any condition imposed pursuant to section 26-313 which leads to the destruction of, or harm to, any rare, threatened or endangered species, no more than ten thousand dollars per violation per day;

(8) For violation of any provision of sections 22a-608 to 22a-611, inclusive, no more than the amount established by Section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 USC 11001 et seq.) for a violation of Section 302, 304 or 311 to 313, inclusive, of said act.