

year of a facility's operation, the minimum sum to be paid to the site community pursuant to this section shall be provided in accordance with a schedule to be agreed upon by the operator and the board; and provided, further, that such sum shall be divided among such communities in accordance with formula established pursuant to section thirty-four.

(6) The operator shall collect a surcharge, established pursuant to section thirty-eight, for the Low-level Radioactive Waste Trust Fund, established in section forty-one, and shall promptly remit the amounts collected, together with any interest accrued thereon, to the state treasurer as treasurer of such Fund.

Section 34. Any community compensation to be provided for site communities pursuant to the comprehensive operating contract shall be divided among such communities in the proportion that each community's population residing within three miles of the facility bears to the total population of site communities within such area. The community compensation to be provided for neighboring communities pursuant to the comprehensive operating contract shall be divided among such communities in the proportion that each community's population residing within three miles of the facility bears to the total population of such communities within such area; provided, however, that if the facility has no neighboring communities, such community compensation shall be divided among the site communities in accordance with the formula established in this section.

Section 35. Facility development, operation, closure, and post-closure observation and maintenance shall be conducted in accordance with sections thirty-six to forty-four, inclusive, shall be known and be cited as "Phase V of the Low-Level Radioactive Waste Management Act", and in accordance with the regulations adopted by the department of public health under section sixteen. The provisions of such sections and regulations shall be implemented so as to provide for the safe and orderly development, operation, closure and post-closure observation and maintenance of any facility licensed pursuant to "Phase IV of the Low-Level Radioactive Waste Management Act".

Section 36. (a) Within thirty days of the issuance of a facility license pursuant to section thirty-one; the department of public health shall, after consultation with the department of environmental quality engineering and the board of health of each site community, establish a comprehensive environmental monitoring program at the facility site. Such program shall employ the best available monitoring technology and shall provide, to the maximum extent feasible, for the participation of officials and citizens of each site community and the training of such persons to facilitate their participation. The program shall be designed to establish baseline environmental data on the site; to determine compliance with applicable regulations, with conditions of the facility license and with terms of the comprehensive operating contract; to provide early warning of the magnitude and extent of any radionuclide migration; and to provide reliable environmental data throughout development, operation, closure, post-closure operation and maintenance

and institution control of the facility. The program shall collect and analyze data concerning standing and running surface water and drainage; groundwater samples from offsite, site boundary and waste management area wells; soil and vegetation samples; atmospheric samples; and radiation measurements offsite, at the site boundary and in the waste management area. The board of health of each site community shall be entitled to obtain portions of the samples collected pursuant to the program for independent analysis by a laboratory certified to conduct such analyses by the United States Environmental Protection Agency.

(b) The operator shall, according to applicable regulations and conditions of the facility license, cooperate with the environmental monitoring program and annually reimburse the department of public health and each site community for the costs thereof until the facility license is transferred to the board pursuant to section forty-six. A copy of all environmental monitoring records and analyses shall be kept at the board field office in the site community for public review.

(c) The department of public health shall annually issue a report describing and evaluating the findings of the monitoring program. Within sixty days of issuance of such report, said department shall hold a public meeting in each site community and, upon request by the chief executive officer of such community, in each affected and neighboring community for public review and comment upon the findings contained therein. Said department shall consider and evaluate all comments made at such public meetings or submitted in writing within sixty days of the issuance of the report.

Section 37. Upon the determination of the department of public health that the environmental monitoring program or detailed site characterization of the superior site has yielded representative baseline data, the operator may commence construction of the facility. The operator shall construct, install and, from time to time, in accordance with the regulations adopted under section sixteen and the conditions of its facility license, make additions or improvements to such structures and equipment as are necessary to operate the facility. Said department shall, in cooperation with officials of each site community and according to the regulations adopted pursuant to said section sixteen, periodically inspect such construction to ensure that such regulations and the conditions of the license are satisfied. The board shall appoint a resident engineer having the experience and expertise specified in section forty-two J of chapter seven, who shall represent the board daily at the superior site during the construction of the facility and who shall, in cooperation with officials of each site community, check, inspect and report to the board as to events at the construction site, in order to ensure that the terms of the comprehensive operating contract are satisfied. The deputy commissioner of the division of capital planning and operations shall assist said department and the board in fulfilling their obligations under this section, and shall advise them on the adequacy of construction activities.

Section 38. (a) Upon the issuance of a facility license pursuant to

section thirty-one, and annually thereafter, until the facility license is transferred to the board pursuant to section forty-six, the department of public health shall establish a payment to be made by the operator equal to said departments expected annual operating budget for the next fiscal year for its activities with respect to the facility other than those for which reimbursement has been made pursuant to section thirty-six; provided, however, that such payment shall be adjusted by the amount of any operating deficit or surplus, previously incurred by said department with respect to such activities, in accordance with procedures established by regulation of said department. The operator shall make such payment to the commonwealth prior to the commencement of the fiscal year.

(b) The operator shall annually submit to the board a proposed schedule of fees and criteria for acceptance of low-level radioactive waste. Such schedule shall be based on the classification system contained in the management plan adopted pursuant to section twelve, shall be designed so as to promote source minimization, volume minimization and storage for decay by generators, shall establish service charges for waste shipments found not to be in compliance with applicable regulations and conditions of the facility license, and shall establish fees which are adequate to reimburse the operator for all reasonable expenses of facility development and operation; all reasonable community compensation guaranteed to site, neighboring and affected communities in the comprehensive operating contract executed pursuant to section thirty-three; the department of public health's required annual payment established pursuant to this section; and a reasonable profit from the operation of the facility; and shall establish waste acceptance criteria, consistent with the management plan and adequate to assure proper and efficient operation of the facility; source minimization, volume minimization and storage for decay in compliance with the regulations adopted by said department pursuant to section thirteen; and conservation of facility resources. Such waste acceptance criteria shall specify that no low-level radioactive waste shall be accepted from an electric-power-generating facility if such waste requires management more stringent than the most stringent management required for any low-level radioactive waste which may be accepted at the facility from another generator. The operator's proposed schedule shall be accompanied by a certified audit of gross operating receipts from fees and surcharges imposed for acceptance of low-level radioactive waste at the facility during the current and prior fiscal years and a verification under oath that all compensation required to be paid by the operator to each site, neighboring and affected community by the comprehensive operating contract has been paid, and that all surcharges collected for the Low-Level Radioactive Waste Trust Fund have been remitted to the state treasurer in accordance with the requirements of the comprehensive operating contract executed pursuant to section thirty-three. All books and records of the operator shall be subject to audit pursuant to section twelve of chapter eleven.

(c) The board, after notice and opportunity for hearing, shall approve, modify or reject the schedule of fees and waste acceptance criteria submitted by the operator and establish annually a schedule of surcharges for the Low-Level Radioactive Waste Trust Fund established in section forty-one. Such fees, criteria and surcharges shall be imposed as conditions of acceptance of all low-level radioactive waste at the facility until a new or revised schedule is approved by the board.

Section 39. (a) Upon written notification by the operator that the facility is ready to accept low-level radioactive waste, and upon written notification by the department of public health that the facility is in compliance with all regulations and conditions of the facility license, the board shall determine whether the operator is in compliance with the comprehensive operating contract. If it is so determined, then the facility shall commence operation.

(b) Within seven days of the board's determination, the operator shall notify all generators of the date on which the operator will accept low-level radioactive waste from such generators. Included in such notice shall be a statement of the terms, conditions and criteria for low-level radioactive waste acceptance at the facility.

Section 40. (a) The facility shall be operated in accordance with this section and with regulations adopted under section sixteen. All shipments of low-level radioactive waste shall, upon arrival at the facility, enter the facility, but shall not proceed into the waste management area for unloading until inspected by the department of public health and found to be in compliance with applicable regulations and conditions of the facility license. Shipments found not to be in compliance shall proceed to a controlled area within the facility to await action to remedy the situation, and the board of health of each site community shall be so notified by the operator. Shipments found to be in compliance shall proceed into the waste management area for unloading. After a transport vehicle is unloaded and leaves the waste management area, it shall not leave the facility until it is again inspected by the department of public health and decontaminated, if necessary.

(b) the department of public health, in consultation with the board, may issue an order temporarily or permanently closing a facility prior to its scheduled closing date if it finds that there is a potential hazard to public health, safety or the environment which justifies such temporary or permanent closure. A facility that is temporarily closed shall remain closed as long as necessary for remedial action and, in any event, throughout any period of facility clean-up and stabilization. Prior to authorizing the reopening of a temporarily closed facility, said department shall conduct at least one public meeting on the reopening in each site community and other public meetings in neighboring communities upon request by the chief executive officer of such community, and shall issue a summary response to all comments made at such public meetings or made in writing during the time the facility is temporarily closed and an explanation of the reasons for authorizing the reopening.

(c) the department of public health shall annually prepare a report summarizing its inspection and enforcement activities with respect to the facility and shall transmit a copy of such report to the board and the board of health of each site community.

Section 41. (a) There is hereby established within the Low-Level Radioactive Waste Trust Fund, a contingent liability account and the institutional control account. The board shall determine annually the amount of revenues, raised from the surcharges imposed pursuant to section thirty-eight, that shall be deposited within each account; provided, however, that after such deposits, no amounts so deposited may be transferred between such accounts.

(b) The contingent liability account shall be used to pay compensation for injuries to persons, land or property resulting from the management of low-level radioactive waste pursuant to section nine.

(c) The institutional control account shall be used to pay institutional control costs pursuant to sections nine and forty-seven. The account shall be used by the board to purchase insurance coverage or otherwise to ensure the availability of funds to meet liability claims during the institutional control period; provided, however, that no portion of the monies held in the institutional control account may be used to satisfy judgments or settlements pursuant to section nine or for any other purpose other than institutional control of a facility.

Section 42. The Low-Level Radioactive Waste Trust Fund, established by section thirty-five H of chapter ten, shall be administered by the board, without liability on the part of the commonwealth beyond the amounts credited to and earned by the fund.

The treasurer shall make payments from accounts of said fund upon receipt of a warrant listing all payments to be made and the accounts to be debited, which has been approved in writing by the board.

The state treasurer shall on or before July first of each year, submit to the board, the governor, the clerk of the senate and the clerk of the house of representatives, an annual report for the previous fiscal year. Said report shall include a statement of the revenues and disbursements of said Fund for the fiscal year, the balance at the beginning and the end of the fiscal year for each account within the trust fund, and any other information the treasurer deems appropriate.

Section 43. (a) At least one year prior to the date scheduled for facility closure in the facility closure plan required to be prepared and maintained by regulations issued pursuant to section sixteen, the operator shall submit such plan to the department of public health and the management board. Said department shall conduct a public meeting on the plan at times to be determined after consultation with the board in each site community and other public meetings in neighboring communities upon request by the chief executive officer of such community. The board shall participate in each such public meeting. Said department shall accept written comments on the plan submitted by any interested person within forty-five days of the public notice of the availability of the plan. Prior to its acceptance of the plan said departments shall consider and evaluate all comments made at a public

meeting or submitted in writing.

(b) Upon acceptance of such plan by said department and the board, the operator shall implement such plan according to the closure schedule contained therein. Said department shall, in cooperation with appropriate officials of each site community and according to regulations adopted pursuant to section sixteen, periodically inspect the operator's implementation of the facility closure plan to ensure that such regulations and the conditions of the facility license are satisfied. The board shall, in cooperation with appropriate officials of each site community, periodically, inspect the operator's implementation of the facility closure plan to ensure that the terms of the comprehensive operating contract are satisfied and that steps necessary to allow the board to accept transfer of the facility license pursuant to section forty-six are taken.

Section 44. Upon completion of site closure activities, the operator shall, for no less than five years thereafter, engage in active observation and maintenance of the facility in accordance with regulations adopted pursuant to section sixteen and the conditions of the facility license. By the end of such time, the operator shall transfer all records of its development, operation, closure and post-closure observation and maintenance of the facility to the board.

Section 45. Institutional control of a facility shall be conducted, subject to appropriation, in accordance with sections forty-six and forty-seven, which shall be known and may be cited as "Phase VI of the Low-Level Radioactive Waste Management Act", and in accordance with the regulations adopted pursuant to section sixteen. The provisions of these sections and regulations shall be implemented so as to provide for the safe and orderly institutional control of a facility following transfer of the facility license from the operator to the board.

Section 46. (a) No sooner than five years after the implementation of the site closure plan pursuant to section forty-four, the board shall accept transfer of the facility license from the operator, if it determines that the operator has fulfilled all of its obligations under the comprehensive operating contract executed pursuant to section thirty-three. No fewer than ninety days prior to such vote, the board shall issue a draft plan for institutional control of the facility in accordance with the regulations adopted under section sixteen for public review and comment. The board shall conduct a public meeting on the plan of each site community and other public meetings in neighboring communities upon request by the chief executive officer of such community. The board shall accept written comments on the plan submitted by any interested person within forty-five days of the public notice of the availability of the plan. Prior to its vote to accept transfer of the license and adopt the plan, the board shall consider and evaluate all comments made at a public meeting or submitted in writing.

(b) Upon the board's decision to accept transfer of the facility license the department of public health shall, after notice and opportunity for hearing, determine whether to allow such transfer. The decision of said

department to approve facility license transfer shall be based on a determination that the operator's obligations under section forty-four have been fulfilled and that the board's program for institutional control of the facility is adequate to protect the public health, safety and the environment. Such decision shall specify, based on the characterization of the facility and of the low-level radioactive waste present at the site, a period of time during which institutional control shall continue, or a procedure for approving termination by the board of institutional control following a specified period of time. The institutional control period shall not be less than the minimum time required for any low-level radioactive waste present at the site to decay to the maximum concentrations above natural background levels permitted to be released into air or water in unrestricted areas under federal and state law.

(c) The operator shall not be required to submit a report to the state ethics commission and the inspector general, in accordance with section twenty-two, for any year after the year during which the facility license is transferred pursuant to this section.

Section 47. The board shall be responsible for institutional control of the facility in accordance with the program approved by the department of public health and regulations adopted pursuant to section sixteen. The board shall annually issue a report of its institutional control of the facility for public review and comment. Within sixty days of issuance of such report, the board shall hold a public meeting in each site community and other public meetings in neighboring communities upon request by the chief executive officer of such community. The board shall consider and evaluate all comments made at such public meetings or submitted in writing within sixty days of the issuance of the report. Said department shall issue an annual report of the supervision of such institutional control activities for public review and comment. Within sixty days of issuance of such report, said department shall hold a public meeting in each site community and other public meetings in neighboring communities, upon request by the chief executive officer of such community. Said department shall consider and evaluate all comments made at such public meetings or submitted in writing within sixty days of the issuance of the report.

Section 48. The selection of an operator and the development of a facility pursuant to this chapter shall, for the purposes of section forty-two B of chapter seven, be construed as an alternative method of design and construction services approved by the legislature, and shall not be subject to sections thirty-eight A 1/2 to thirty-eight N, inclusive, of said chapter seven or of sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine.

**SECTION 6.** The low-level radioactive waste management board, established under the provisions of section two of chapter one hundred and eleven G of the General Laws, is hereby authorized and directed to represent the commonwealth in any and all negotiations with other states for the purpose of reaching an interstate compact agreement to

provide for the establishment and operation of regional disposal facilities for low-level radioactive waste. In carrying out the duties established hereunder, said board may initiate negotiations with any state it deems appropriate to meet the needs of the commonwealth with respect to such facilities upon a majority vote of the board. The board shall include as part of its management plan adopted pursuant to section eleven of chapter one hundred and eleven H of the General Laws a detail report which shall include a summary of all negotiations conducted prior to the establishment of the board, a study of the feasibility of the commonwealth entering into a regional compact which shall identify those states the board deems appropriate for the commonwealth to negotiate with. After the issuance of the detailed report the board shall report semiannually to the joint committee on natural resources on its progress in its negotiations for a regional compact which shall include any additional states which the board determined it is appropriate to negotiate with or any other developments which impact on the establishment of an interstate compact, including any cost to the commonwealth for the disposal of low-level radioactive waste or the volume of waste to be stored in the commonwealth arising from the regional compact negotiations.

**SECTION 7.** The governor, on behalf of the commonwealth, may enter into an agreement with the federal nuclear regulatory commission under section 274 of the Atomic Energy Act of 1954, providing for discontinuance of the regulatory authority of the commission with respect to low-level radioactive waste, by-product, source, and special nuclear material, and the assumption by the commonwealth of the authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards.

Any person who, on the effective date of an agreement entered into pursuant to this section, possesses a license issued by the federal nuclear regulatory commission for radioactive materials subject to such agreement shall be deemed to possess a like license issued under section five N of chapter one hundred and eleven of the General Laws. Within ninety days of the effective date of such agreement, the department shall reissue such license on such forms as it may require by regulation; provided, however that such reissued license shall expire on the date of expiration specified in the nuclear regulatory commission license.

**SECTION 8.** Nothing in this act shall prohibit the department of public health from issuing a renewal license to any person lawfully holding a license to accept waste for treatment, storage or disposal as of the effective date of this act and any such person may apply to said department for an amendment of the terms and conditions of such license if the application for such amendment has been determined by the low-level radioactive waste management board to be consistent with the management plan adopted pursuant to section twelve of chapter one hundred and eleven H of the General Laws.

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ACTS, 1987. - Chap. 550.

SECTION 9.

EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.

1400-0000	For the low-level radioactive waste management board the implementation of the provisions of section two through six inclusive, nine, eleven, twelve and fifteen of chapter one hundred and eleven H of the General Laws	\$205,209
1599-2000	For a reserve for the development of a low-level radioactive waste disposal facility by the low-level radioactive waste management board; provided that federal funds received pursuant to 42 U.S.C. 2021E(D) (1) (b) as of July first, nineteen hundred and eighty-six shall be credited to this item; provided further, that additional funds received pursuant to 42 U.S.C. 2021E(D) (1) (b) shall be available for the development of said low-level radioactive waste disposal facility, subject to appropriation; provided further that expenditure of funds from this item shall be subject to the approval of the secretary of administration and finance	\$56,558

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

2200-0000	For the implementation of sections eleven through fourteen inclusive of chapter one hundred and eleven H of the General Laws	\$176,765
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DEPARTMENT OF PUBLIC HEALTH.

4510-0602	For the implementation of sections seven, eight, eleven, thirteen and sixteen of chapter one hundred and eleven H of the General Laws	\$196,757
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SECTION 10. This act shall take effect upon its passage.

Approved December 8, 1987.

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Chapter 550. AN ACT RELATIVE TO THE DISPOSITION OF UNCLAIMED MONIES HELD BY CITIES AND TOWNS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately dispose of unclaimed monies held by cities and towns, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.