

BYLAWS
of the
SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION

Amended April 24, 2009

ARTICLE I

DEFINITION AND SCOPE

Section One: Name

The organization shall be known as the Southwestern Low-Level Radioactive Waste Commission, referred to herein as the "Commission."

Section Two: Controlling Compact Language

Because there are nonessential differences in legislative language among the authorizing statutes of the party states adopting the Southwestern Low-Level Radioactive Waste Compact, the Commission shall use Public Law 100-712, known as the "Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act," as the official Compact to be used by the Commission in carrying out its powers and duties.

Section Three: Definitions

The following words and phrases when used in these Bylaws shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Alternate." Any person appointed according to the laws of a party state to act or vote in the absence of a duly appointed member of the Commission.

"Commission." The Southwestern Low-Level Radioactive Waste Commission as authorized by Public Law 100-712, also known as the Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act.

"Compact." The agreement of the party states as stated in the act of November 23, 1988 (Public Law 100-712), known as the Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act.

"Designated employee." The Executive Director and any employee, or consultant, including legal counsel, whose position with the Commission is designated in the Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

"Host State." The State of California or other party state so designated by the Commission in accordance with Article IV of the Compact.

"Member." Any person appointed pursuant to the Compact as an official representative to the Commission. Such member is a voting member of the Commission.

"Party State." Any state that is a party to the Compact in accordance with Article VII of the Compact.

"Proceeding." Any threatened, pending or completed action, suit, appeal, or other civil, criminal, administrative or investigative proceeding, whether formal or informal, and whether brought by or in the right of the Commission, a class of its members or otherwise.

"Regional Facility." A facility within any party state which has been approved by the Commission for the disposal of low-level radioactive waste.

Section Four: Purpose of Bylaws

It is the purpose of these Bylaws to govern and facilitate the operations and policies of the Commission in accordance with the provisions of the Compact. These Bylaws are supplementary to the Compact and in the event of a conflict, the Compact shall control.

ARTICLE II

ORGANIZATION

Section One: Creation

The Commission is created as a body corporate and politic, as an agency and instrumentality of the party states, but separate and distinct from the party states.

Section Two: Powers and Duties

The Commission shall have full power to conduct, manage, and direct the business affairs of the Commission pursuant to the Compact.

Section Three: Party States and Compact Eligibility

The States of Arizona, California, North Dakota, and South Dakota are party states. Other states may become parties to the Compact provided the requirements of Article VII of the Compact are satisfied.

Section Four: Commission Membership

Only party states shall appoint members of the Commission and such members shall be appointed in accordance with the provisions of the Compact.

The Commission shall consist of:

- (a) one member from each party state, i.e., one member, each, from Arizona, California, North Dakota and South Dakota;

- (b) one member from the host county, a California member; and
- (c) that number of additional members of the Commission which is necessary for the host state's members to compose at least 51 percent of the membership on the Commission, i.e., two additional members from California.

The appointing authority of each party state shall notify the Commission in writing of the identities of the members and of any alternates. Each member may nominate an alternate, whose nomination shall be submitted to the Governor for approval. An alternate may vote and act in the member's absence. If a member resigns, the alternate may act until a new member is appointed.

Section Five: Vacancies

Vacancies on the Commission shall be filled according to the Compact.

Section Six: Conflict of Interest

Members, alternates and designated employees shall comply with the Conflict of Interest Code adopted by the Commission as Appendix A to these Bylaws. This Conflict of Interest Code shall remain in effect during the tenure of California as host state.

ARTICLE III

VOTING

Section One: Quorum

The number of members constituting a quorum is four representing at least two party states. Such number shall include alternates serving in a member's absence. In the event member positions are vacant and no alternates for such positions exist, the number of members constituting a quorum shall remain at four.

Section Two: Voting

Each Commission member, or alternate acting in the member's absence, shall be entitled to one vote. No official action of the Commission may be taken unless a majority, i.e., four, of the total authorized membership vote for the action, except that:

- (a) A two-thirds vote, i.e., five votes, of the Commission shall be necessary for the Commission to take any action related to importation and exportation of low-level radioactive waste as provided in Article III of the Compact.
- (b) A two-thirds vote, i.e., five votes, of the Commission shall be necessary to adopt, amend, repeal, or replace these Bylaws.

Section Three: Proxy Votes

Except for an alternate acting in a member's absence, no voting by proxy shall be allowed at the meetings of the Commission.

Section Four: Voting by Telephone Conference

Voting on an action may occur by telephone conference. The Executive Director shall make a written record of each action taken by telephone conference, including a record of the vote of each Commission member.

Section Five: Recording of Votes

The vote on any matter before the Commission, including the election of officers, shall be taken in such a manner as to show how each Commission member voted, and a record thereof shall appear in the minutes of the meeting.

Section Six: Official Voting Record

All votes of the Commission shall be recorded by the Executive Director and shall become part of the official record. Except for closed meetings where the minutes are confidential pursuant to California Government Code § 11126.1 during California's tenure as host state, the minutes including the voting record shall be made available to the public upon request.

ARTICLE IV

MEETINGS

Section One: Annual Meeting

The Commission shall meet annually. The Chair shall determine the time and place for such meeting. Such meeting shall be known as the annual meeting. The annual meeting ordinarily shall be held in October of each year.

Section Two: Other Meetings

In addition to the annual meeting, the Commission shall also meet upon the call of the Chair or by petition of two or more of the Commission members. Such meeting shall be held at a time and place to be determined by the Chair.

Section Three: Open Meetings

- (a) All meetings of the Commission shall be open and public in accordance with the host state's open meeting law. During California's tenure as host state the open meeting law shall be the Bagley-Keene Open Meeting Act. (California Gov. Code, § 11120 et seq.)
- (b) The Commission shall provide an opportunity for members of the public to directly address the Commission on each agenda item during the Commission's discussion or consideration of the

item. In this regard, the total amount of time allocated for each particular issue shall be fifteen minutes and for each individual speaker on that issue shall be three minutes. The Chair may exercise discretion to limit or extend these time limits.

- (c) The agenda may indicate by asterisk (*) items proposed for consent. Consent items shall not normally be discussed by the Commission or addressed by the public. However, immediately after calling the meeting to order the Chair shall ask whether any Commission member or any member of the public wishes to remove any item from consent. The Chair shall have the discretion to remove any item from consent.

Section Four: Meeting Notice and Public Notice List

- (a) The Executive Director shall provide written notice of meetings to Commission members and alternates and to any person who requests such notice in writing, in accordance with the laws of the host state. During California's tenure as host state, this notice shall be given and also made available on the Internet at least 10 days in advance of the meeting. The notice shall include the date, time and place of the meeting and a specific agenda for the meeting. The notice shall also include the name, address, and telephone number of any person who can provide further information to an interested public.
- (b) The Executive Director shall maintain a mailing list (referred to hereinafter as the 'Public Notice List') of the names and addresses of all persons that have requested notice of more than one meeting. The Executive Director shall keep the Public Notice List current. During California's tenure as host state the Public Notice List shall be kept current in accordance with the requirements of California Government Code § 14911.

Section Five: Agenda

The Executive Director shall prepare an agenda for all meetings. The agenda shall include the items of business to be transacted or discussed. Commission members may recommend items to be placed on the agenda by notifying the Executive Director at least fifteen days prior to a meeting. The Chair shall approve the agenda prior to distribution of the notice of meeting. During California's tenure as host state the agenda shall provide sufficient detail so as to be in compliance with California Government Code §11120 et seq.

Section Six: Rules of Procedures

The rules contained in the current edition of "Robert's Rules of Order Newly Revised" shall govern the Commission in all cases to which they are applicable and in which they are not inconsistent with the Compact, other laws applicable to the Commission, and these Bylaws and any special rules of order that the Commission may adopt.

Section Seven: Order of Business

The order of business at meetings shall be at the discretion of the Chair. The order of business may include items as follows:

- (a) Call to order;

- (b) Roll call, determination of quorum and introductions;
- (c) Statement of compliance with due notice of meeting requirement;
- (d) Report of the Chair;
- (e) Report of the Executive Director;
- (f) Report of committees;
- (g) Unfinished business;
- (h) New business;
- (i) Next annual meeting or announcement of next other meeting;
- (j) Adjournment.

Section Eight: Minutes

Written minutes of all Commission meetings shall be kept by the Executive Director. The minutes shall record the final votes of each Commission member as to any Commission decision. The Executive Director shall furnish copies of the draft minutes, within 20 working days following each meeting, to each Commission member or alternate, as appropriate, for their review and approval. Where required by law, the Executive Director shall provide a copy of the approved minutes to members of the public who request such copy.

Section Nine: Committees

- (a) The Commission may establish such committees as it deems necessary for the purpose of advising the Commission on any and all matters of interest to the Commission and as may be appropriate under the terms of the Compact.
- (b) Except for the Fiscal Advisory Committee, the Chair shall appoint all committee members, shall designate a Commission member or alternate as Chair of each committee, and, except for standing committees, shall establish the duration of each committee's existence.
- (c) Prior to the appointment of a committee member, the Chair may request of the candidate committee member a resume which evidences the candidate's possession of knowledge or expertise meriting such appointment.
- (d) If a Commission member or alternate is a committee member, that person's counterpart (e.g., alternate) may act, including the right to vote and assume the position of committee chair where appropriate, in the absence of the member at a committee meeting.
- (e) A record of the committee proceedings shall be made which shall include how committee members voted. A synopsis of the proceedings shall be reported to the Commission at the next Commission meeting and shall be included in the minutes of that Commission meeting.

(f) Committee meetings are subject to the applicable open meeting laws of the host state. During the tenure of California as host state, committee meetings are subject to the Bagley-Keene Open Meeting Act.

(g) Standing Committees

- (1) Fiscal Advisory Committee. The Fiscal Advisory Committee consists of the Chair and the Vice-Chair. Its duties include overseeing the execution of the annual budget as approved by the Commission and reviewing proposed budgets and amendments prior to submission to the Commission for approval.
- (2) Personnel Advisory Committee. The Personnel Advisory Committee consists of two members appointed by the Chair. Its duties include: planning and executing performance evaluations of employed and contract staff and reporting the results back to the Commission at the annual meeting; and reviewing duties and compensation of employed and contract staff and making recommendations to the Commission for any changes at the annual meeting, taking into account the results of performance evaluations, workload, and inflation. The Executive Director shall accomplish the performance evaluation of Counsel for the Personnel Advisory Committee.
- (3) Exportation Advisory Committee - The Exportation Advisory Committee consists of two members appointed by the Chair. Its duties include overseeing the Executive Director's execution of the exportation petition approval activity as documented in the Commission's "Policy of the Southwestern Low-Level Radioactive Waste Commission Regarding Exportation of Various Low-Level Radioactive Waste Streams" document, and, if needed, making recommendations to the Commission at the annual meeting of any changes deemed necessary.

Section Ten: Emergency Meetings

During the tenure of California as host state, the Commission may hold emergency meetings, in accordance with the requirements of California Government Code § 11125.5.

Section Eleven: Meetings by Telephone Conference

The Commission may conduct meetings by telephone conference if, in the opinion of the Chair, a meeting at a single geographic location is impractical or not necessary. Such meetings, for the benefit of the public and state body, shall be open or closed and shall comply with the host state's open meeting law.

ARTICLE V

OFFICERS AND EMPLOYEES

Section One: Officers

- (a) The officers of the Commission shall be the Chair, Vice-Chair, and Executive Director.
- (b) The Chair and Vice-Chair shall be elected by majority vote, i.e., four votes.
- (c) The Executive Director shall serve as a nonelected officer of the Commission. However, the Executive Director shall not be a member of the Commission nor have voting privileges.

Section Two: Chair and Vice-Chair

- (a) At its annual meeting, the Commission shall elect from among its members a Chair and Vice-Chair. An alternate may not serve as an officer.
- (b) The duties of the Chair are to preside at all Commission meetings, appoint the membership of all committees, officially represent the Commission or appoint another person to officially represent the Commission, call Commission meetings, and perform such other duties as may normally be performed by a presiding officer.
- (c) The duties of the Vice-Chair are to perform the duties of the Chair in the event of the absence of the Chair or a vacancy in that office until such time that an election can be held.

Section Three: Election of Chair and Vice-Chair

- (a) The Chair and the Vice-Chair shall be elected at the annual meeting. All elected officials shall be chosen by rollcall vote.
- (b) All elected officers shall begin serving from the close of business at the meeting at which elected, until the close of business at the meeting where their successors are elected.
- (c) There is no limit on the number of terms an elected officer may serve.
- (d) No person shall continue to serve as an elected officer if that person ceases to be a member of the Commission.
- (e) In the event of a vacancy in the office of Chair or Vice-Chair, the Commission shall elect a replacement at the next meeting. Such replacement shall serve until the election of officers at the next annual meeting.

Section Four: Executive Director

- (a) The Commission shall select an Executive Director who shall serve as the Commission's chief executive officer and administrator. The Executive Director, an independent contractor of the Commission, shall serve at the compensation, pleasure, and discretion of the Commission

irrespective of the civil service, personnel or other merit laws of any of the party states or federal government. Consistent with the requirements of the Compact, the Executive Director shall:

- (1) serve as a nonelected officer of the Commission;
- (2) perform the duties of the Chair in the event of the absence of the Vice-Chair or a vacancy in that office until such time that an election can be held;
- (3) appoint and remove or discharge such Commission staff as may be necessary for the performance of the Commission's functions, irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government;
- (4) prepare a staffing plan for the office;
- (5) supervise all Commission staff and their work including assigning functions, powers and duties and modifying such assignments as needed;
- (6) perform an annual performance evaluation of Counsel. The Personnel Advisory Committee delegates this duty to the Executive Director. The Executive Director will provide each Commissioner with an abbreviated performance evaluation form (Counsel Performance Evaluation Form A). Each Commissioner will complete the form and give it to the Executive Director prior to the annual meeting. The Executive Director will draft a non-abbreviated performance evaluation form (Counsel Performance Evaluation Form B) taking into consideration his/her judgement and the abbreviated completed forms submitted by each Commissioner. The Executive Director will meet with Counsel prior to the annual meeting to discuss the draft report. The Executive Director will then prepare a performance evaluation in final form which will be submitted to the Commission for discussion and approval in closed session at the annual meeting. A copy of the final completed report, approved by the Commission, will be given to Counsel and the original will be maintained with the Commission records as a confidential document.
- (7) delegate to staff such powers of the Executive Director as are deemed necessary for efficient administration;
- (8) establish such office rules of procedures as may be necessary for the orderly transaction of daily business;
- (9) prescribe, install and maintain a system of accounting, arrange for an independent audit, and approve bills, claims and demands and warrant their payment;
- (10) prepare proposed operating policies and resolutions, for Commission approval;
- (11) effectuate and enforce all policies and resolutions adopted by the Commission;
- (12) plan, prepare agendas for, and staff Commission meetings;
- (13) prepare an annual budget request under the terms of the Compact;

- (14) prepare a draft annual report and include in such draft report the information required by the Compact. The Executive Director shall furnish copies of the draft report to each Commission member for review and approval;
 - (15) prepare an inventory of all regional facilities and specialized facilities as required by the Compact;
 - (16) prepare and keep current inventories of all generators and waste generated within the region as provided by the party states;
 - (17) coordinate the Commission's plans and programs with federal, state, regional, county, and local governments and other relevant agencies;
 - (18) negotiate contracts, leases, and intergovernmental arrangements for and on behalf of the Commission and execute such documents in its name, except in the case of contracts for legal, auditing or technical services, or intergovernmental arrangements, which shall require approval by the Commission prior to execution;
 - (19) carry out the duties and requirements prescribed in the Compact and the Commission's Bylaws;
 - (20) notify appointing authorities of vacancies on the Commission;
 - (21) accept donations, grants, or money, equipment, supplies, materials, or services from the federal or state government on behalf of the Commission;
 - (22) develop a plan and procedures to enable the Commission to function in the temporary incapacity of the Executive Director;
 - (23) diligently perform other duties and responsibilities associated with the position of Executive Director as the Commission may require;
 - (24) develop and maintain liaison with the California legislature regarding matters that affect the Commission;
 - (25) attend Seminars, Forums, Lectures and other like kind information exchanges for the purposes related to the duties of Executive Director and as approved in advance by the Chair.
- (b) In the event that the office of the Executive Director becomes vacant or the Executive Director is incapacitated, the Chair may act as such on a temporary basis or appoint an acting Executive Director to serve until the incapacity is cured or the Commission is able to appoint a new Executive Director if the office is vacant.
- (c) The performance of the Executive Director shall be evaluated in accordance with the following procedure:

The Chair of the Personnel Advisory Committee will provide a performance evaluation form

(Executive Director Performance Evaluation Form A) to each Commissioner approximately one month before the annual meeting. Each Commissioner will complete the performance evaluation form and submit the completed form to the Personnel Advisory Committee Chair prior to the annual meeting. The Personnel Advisory Committee Chair, in turn, will draft a performance evaluation form (Executive Director Performance Evaluation Form B) taking into consideration his/her judgment and the completed forms submitted by each Commissioner, review the draft with the Personnel Advisory Committee, and forward the reviewed draft to the Commission Chair. The Commission Chair will then discuss the draft performance evaluation with the Executive Director prior to the annual meeting. The Commission Chair will then prepare Executive Director Performance Evaluation Form B in final form which will be submitted to the Commission for discussion and approval in closed session at the annual meeting. The closed session will be scheduled early on the meeting agenda so as to precede the open session budget discussion. A copy of the final completed report, approved by the Commission, will be given to the Executive Director and the original will be maintained with the Commission records as a confidential document.

ARTICLE VI

FINANCES AND ACCOUNTING

Section One: Fiscal Year

The fiscal year of the Commission shall begin on the first day of July and shall end on the thirtieth day of June of the following calendar year.

Section Two: Annual Budget

The Executive Director shall prepare a proposed annual budget which includes all anticipated sources and amounts of revenue and all anticipated expenses. The proposed annual budget shall be included in the annual report. The Commission shall adopt an annual budget at its annual meeting. The annual budget may be amended by the Commission as necessary.

Section Three: Accounting Procedures

Orderly and accurate methods of accounting shall be used when handling funds received and disbursed by the Commission. The Commission's accounts shall be recorded and maintained based upon generally accepted accounting principles, including a system of internal controls to ensure the safeguarding of assets.

Section Four: Acceptance of Donations and Grants of Money

The Commission may accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition of the donation or grant and the identity of the donor, grantor or lender shall be reported in the annual report of the Commission. Any such donation, grant, or money, equipment, supplies, materials, or services may be accepted on behalf of the Commission by the Executive Director.

Section Five: Selection of a Bank as a Depository for the Commission's Funds

The Executive Director, with the approval of the Chair, shall from time to time designate such bank or banks as shall be the official depository or depositories of the Commission. Each such depository is authorized and directed to pay checks and other orders for the payment of money, including those drawn in accordance with the provision of Article VI, Section 6.

Section Six: Responsibility for Signing Commission Checks and Drafts

All checks, drafts or other documents for the withdrawal of funds of the Commission shall be signed by the Executive Director or, in the absence of the Executive Director, by a person specifically designated by the Executive Director in writing. Any such check, draft or other document which is related to the Executive Director's compensation or is in excess of \$3,000 shall be countersigned by the Chair or Vice-Chair. Endorsement of checks to be deposited to the credit of the Commission shall be by either the Executive Director or a person designated by the Executive Director in writing. The person who records the check, draft or other document in the Commission accounting records shall be a person other than the person that deposits the check. As an alternative, the person who records the check, draft or other document in the Commission accounting records shall make a photocopy of such document and file it along with a deposit receipt. In that event, that person may make the deposit.

Section Seven: Budget Adjustments

The Executive Director may make adjustments between budget line items by amounts not to exceed \$10,000 per year. Adjustments exceeding \$10,000 may be made by the Executive Director with the prior approval of the Chair or Vice-Chair. Any adjustments made pursuant to this Section shall be reported by the Executive Director to the Commission at its next meeting.

Section Eight: Compensation of Commission Members and Alternates

Members and alternates of the Commission shall serve without compensation from the Commission. Members and alternates shall be reimbursed by the Commission for necessary expenses incurred in and incident to the performance of their duties, upon request, according to rules for expense for state employees of the appointing state or as provided in Section Nine: Travel Reimbursement. However, an alternate shall not be eligible for reimbursement from the Commission if the respective Commission member also attends a Commission meeting or function unless the reimbursement is specifically authorized by the Commission.

Section Nine: Travel Reimbursement

Members and alternates, staff, and consultant shall be reimbursed by the Commission for necessary expenses incurred in and incident to the performance of their duties, upon request, as follows:

- (a) Privately owned automobile use—Mileage as allowed for nonrepresented employees of the State of California.
- (b) Airfare, rental automobiles, other forms of public transportation, and associated expenses—Actual cost when supported by a receipt as appropriate.
- (c) Lodging—Actual cost when supported by a receipt.
- (d) Meals and miscellaneous expenses—Rates as allowed for nonrepresented employees of the State of California.
 - (1) Breakfast shall be allowed only when travel begins at or before 7:00 a.m.
 - (2) Dinner shall be allowed only when travel ends at or after 7:00 p.m.
- (e) Meeting registration and associated expenses—Actual cost when supported by a receipt.

Section Ten: Audit

Within 120 days of the closing of the fiscal year, an audit shall be made of the financial records of the Commission by an independent certified public accountant selected by the Commission. The audit report shall be prepared in accordance with generally accepted accounting principles and generally accepted governmental auditing standards and shall include an evaluation of internal controls. Copies of the report shall be distributed to each Commission member and shall be made part of the annual report of the Commission.

Section Eleven: Bonding

All officers and staff of the Commission who handle or have access to the funds of the Commission shall be bonded in such amounts as the Commission shall determine. The Commission may secure either a blanket or individual bond. The premium for such bond shall be paid by the Commission.

ARTICLE VII

LIABILITY AND LEGAL DEFENSE

Section One: Liability

- (a) Members, alternates, and employees of the Commission shall not be personally liable for actions taken in an official capacity or within the scope of employment.
- (b) Liabilities of the Commission shall not be liabilities of the party states.

Section Two: Defense of Criminal Proceedings

- (a) Generally, the Commission will not indemnify members, alternates, or employees of the Commission in criminal proceedings arising from acts or omissions occurring while in the service of the Commission.
- (b) The Commission will authorize the reimbursement of reasonable attorney fees and disbursements where attorneys successfully defend a member, alternate or employee of the Commission against criminal charges arising from acts or omissions occurring while acting in the official capacity or within the scope of employment.

Section Three: Civil Proceedings

The Commission shall indemnify a member, alternate or employee of the Commission, present or former, for the expense of a judgment against him in any civil proceeding arising from acts or omissions occurring while acting in an official capacity or within the scope of employment.

Section Four: Defense By Commission In Civil Proceeding

- (a) A member, alternate or employee or former member, alternate or employee of the Commission may request the Commission to defend against any claim or action for an injury arising out of an act or omission occurring while acting in an official capacity or within the scope of employment as a member, alternate or employee of the Commission. If such request is made in writing not less than 10 days before the day of trial, and the member, alternate or employee or former member, alternate or employee reasonably cooperates in good faith in the defense of the claim or action, the Commission shall pay for the defense including reasonable attorney fees and any judgment based thereon or any compromise or settlement of the claim or action to which the Commission has agreed.
- (b) If the Commission conducts the defense of a member, alternate or employee or former member, alternate or employee against any claim or action and the individual reasonably cooperates in good faith in that defense, the Commission shall pay for the defense including reasonable attorney fees and any judgment based thereon or any compromise or settlement of the claim or action to which the Commission has agreed.
- (c) The Commission may conduct such defense pursuant to an agreement with the member, alternate or employee or former member, alternate or employee, reserving the rights of the Commission not to pay for the defense including reasonable attorney fees and judgment, compromise or settlement until it is established that the injury arose out of an act or omission occurring while acting in an official capacity or within the scope of employment as a member, alternate or employee or former member, alternate or employee of the Commission. Where the defense is conducted pursuant to such an agreement the Commission is required to pay for the defense including reasonable attorney fees and judgment, compromise or settlement only if it is established that the injury arose out of an act or omission occurring while acting in an official capacity or in the scope of employment as a member, alternate or employee of the Commission.
- (d) The Commission shall not pay such part of a claim or judgment as is for punitive or exemplary damages.

ARTICLE VIII

ANNUAL REPORT

By no later than the January 15 following the fiscal year just ended, the Commission shall make an annual report to the Commission members and alternates and to the Governor and the presiding officer of each body of the legislature of the party states regarding the activities of the Commission during the preceding fiscal year. The annual report shall summarize all actions, decisions and resolutions approved by the Commission; summarize the status of regional waste facilities and disposal within the Compact; include a copy of the annual Commission audit; include a copy of the Commission budget showing anticipated receipts and disbursements for the subsequent fiscal year; include a review of, and recommendations for, low-level radioactive waste disposal methods which are alternative technologies to the shallow land burial of low-level radioactive waste; and include the nature, amount and condition, if any, of any donation or grant received by the Commission together with the identity of the donor, grantor, or lender. The

Executive Director shall provide written notice of the availability of the annual report to all persons on the mailing list maintained pursuant to Section Four of Article IV and shall provide a copy of the annual report upon request.

ARTICLE IX

GENERAL PROVISIONS

Section One: Inspection of Commission Records

The Commission's records shall be subject to the host state's public records law. The Executive Director is authorized to charge reasonable fees for the preparation, copying and release of Commission records. Such fees shall bear a reasonable relationship to the costs associated with generating and handling the record or copy thereof.

Section Two: Nondiscrimination

The Commission shall not discriminate against any person solely on account of race, creed, color, sex, or national origin.

Section Three: Policies and Procedures

The Commission may adopt such other policies and procedures that are not in conflict with the Compact or these Bylaws as it deems necessary to perform its power and duties.

Section Four: Amendment of Bylaws

These Bylaws may be revised or amended by a two-thirds vote, i.e., five votes, of the Commission at any meeting.

Section Five: Severability

If any term, condition, clause, or provision of these Bylaws is determined or declared to be void or invalid then only that term, condition, clause or provision shall be stricken from these Bylaws, and in all other respects these Bylaws shall be valid and continue in full force, effect and operation. If any part is found to be in conflict with the Compact, the Compact shall prevail and all other provisions of these Bylaws shall remain in full force, effect and operation.

ARTICLE X

EXPORTATION AND IMPORTATION

Section One: Exportation

Exportation of material, which otherwise meets the criteria of low-level radioactive waste, outside the Southwestern region, shall be pursuant to the Commission's document entitled "Policy of the Southwestern Low-Level Radioactive Waste Commission Regarding Exportation of Various Low-Level Radioactive Waste Streams," as amended, which document in its entirety is hereby incorporated by reference.

Section Two: Importation

Importation of material, which otherwise meets the criteria of low-level radioactive waste, into the Southwestern region, shall be pursuant to the Commission's document entitled "Policy of the Southwestern Low-Level Radioactive Waste Commission Regarding Importation for Disposal of Radioactive Waste," adopted April 7, 2000, which document in its entirety is hereby incorporated by reference.

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History: **Adopted** June 23, 1993.

Amended June 24, 1994 to add a conflict of interest code.

Amended February 10, 1995 to bring into conformity with the Compact the procedures for naming an alternate. (Article II, Section Four (c).)

Amended October 4, 1996 to implement, interpret or make specific subdivision (b) of §11125.7 of the California Open Meeting Act. (Article IV, Section Three.)

Amended June 6, 1997 to add clarifying language pertaining to committees (Article IV, Section Nine.)

Amended October 2, 1998 to add language clarifying public comment on nonsubstantive agenda items (Article IV, Section Three (c)).

Amended April 7, 2000 to add language clarifying reimbursement of members and staff for travel expenses (Article VI, Sections Eight and Nine).

Amended April 5, 2002 to add language: to allow flexibility in the timing of the annual meeting (Article IV, Section One); establishing standing committees (Article IV, Section Nine (b) and (g)); and clarifying reimbursement for the cost of registration at a meeting (Article VI, Section Nine (e)).

Amended September 24, 2002 to add staff performance evaluation procedures (Article IV, Section Nine (g) (2); Article V, Section Four (a) (6); Article V, Section Four (c)).

Amended April 11, 2003 to clarify the Executive Director's status as an independent contractor and to add a duty pertaining to contingency planning in the event of temporary incapacity (Article V, Section Four (a)).

Amended April 16, 2004 to increase the dollar amount of checks, drafts or other documents the

Executive Director is authorized to sign without countersignature by the Chair or Vice-Chair (Article VI, Section Six).

Amended October 1, 2004 to provide procedures if the Executive Director is incapacitated (Article V, Section Four, Subsection (b)); and to add language regarding importation and exportation (Article X).

Amended October 6, 2006 to add provision for public notice to be given via the Internet; and to provide that telephone conference meetings, open or closed, are to comply with the host state's open meeting law.

Amended October 23, 2007 to establish an Exportation Advisory Committee.

Amended April 15, 2008 to add new duty for Executive Director, that is to develop and maintain liaison with the California legislature regarding matters affecting the Commission.

Amended October 16, 2008 to provide an alternative method of recording fiscal deposits and provide for consultant expense compensation.

Amended April 24, 2009 add (25) to Executive Director duties to attend Seminars, Forums, Lectures and other like kind information exchanges for the purposes related to the duties of Executive Director and as approved in advance by the Chair.

APPENDIX A

CONFLICT OF INTEREST CODE

FOR THE MEMBERS AND DESIGNATED EMPLOYEES OF THE

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION

Public Law 100-712, the Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act, mandates that Southwestern Low-Level Radioactive Waste Commission (Commission) members are public officials of the appointing state and shall be subject to the conflict of interest laws of the appointing state. (Pub.L. No. 100-712, 102 Stat. 4773, § 5, art. III, subdiv. (e).) This Conflict of Interest Code implements, interprets and makes specific this law. Accordingly:

- (a) The Commission member and alternate appointed from Arizona are subject to the Arizona conflict of interest law hereby incorporated by reference. This includes, but is not limited to Arizona Statutes, Title 38 - Public Officers and Employees, Chapter 3 - Conduct of Office, Article 8 - Conflict of Interest of Officers and Employees, § 38-501 et seq., and all other provisions of Arizona state law relating to conflicts of interest applicable to such public officials, now or hereafter in effect.
- (b) The Commission members and alternates appointed from California are subject to the California conflict of interest law. The Political Reform Act, California Government Code § 81000, et seq., requires certain entities to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission (FPPC) has adopted a regulation, title 2, California Code of Regulations, § 18730, which contains the terms of a standard conflict of interest code. It can be incorporated by reference and may be amended by the FPPC after public notice and hearings to conform to the amendments in the Political Reform Act. Therefore, the terms of title 2, California Code of Regulations, § 18730 and any amendments to it duly adopted by the FPPC are hereby incorporated by reference and, along with the attached Addendum in which members and employees are designated and disclosure categories are set forth, constitute the conflict of interest code for California members and designated employees of the Commission.

Designated employees shall file statements of economic interests with the Commission. Upon receipt of the statements of the California Commissioners, California Alternates, and Executive Director, the Commission shall make and retain copies and forward the originals to the FPPC. Statements for all other designated employees will be retained by the Commission.

APPENDIX A (CONT.)

CONFLICT OF INTEREST CODE

FOR THE MEMBERS AND DESIGNATED EMPLOYEES OF THE

SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION

- (c) The Commission member and alternate appointed from North Dakota are subject to the North Dakota conflict of interest law hereby incorporated by reference. This includes, but is not limited to North Dakota Statute, Title 12.1 - Criminal Code, Chapter 12.1-13 - Confidential Information - Conflict of Interest - Impersonation, § 12.1-13-02, Subsection 2, and all other provisions of North Dakota state law relating to conflicts of interest applicable to such public officials, now or hereafter in effect.
- (d) The Commission member and alternate appointed from South Dakota are subject to the South Dakota conflict of interest law hereby incorporated by reference. This includes, but is not limited to South Dakota Statutes, Title 3 - Public Officers and Employees, Chapter 3-1A - Officer's Statements of Financial Interest, § 3-1A-1 et seq., Title 4 - Public Fiscal Administration, Chapter 4-10 - Accounts and Records, § 4-10-11, Title 12 - Elections, Chapter 12-25 - Campaign Financing and Candidates' Financial Statements, § 12-25-13.5, and all other provisions of South Dakota state law relating to conflicts of interest applicable to such public officials, now or hereafter in effect.

ADDENDUM TO
CONFLICT OF INTEREST CODE
FOR THE MEMBERS AND DESIGNATED EMPLOYEES OF THE
SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION

1. California Commission members, alternates, and the Executive Director shall report all investments and business positions in business entities, interests in real property, and sources of income, which are subject to the regulatory authorities of the Southwestern Low-Level Radioactive Waste Commission and all investments and business positions in business entities, interests in real property, and sources of income, which provide services, supplies, materials, machinery or equipment of the type utilized by the Southwestern Low-Level Radioactive Waste Commission.
2. Consultants, including hired or retained legal counsel, are to report all investments and business positions in business entities, interests in real property, and sources of income, which are subject to the regulatory and fiscal authorities of the Southwestern Low-Level Radioactive Waste Commission. The Executive Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.
3. Advisory Committee members, other than Commission members and alternates from Arizona, North Dakota and South Dakota, are to report all investments and business positions in business entities, interests in real property, and sources of income, which are subject to the regulatory and fiscal authorities of the Southwestern Low-Level Radioactive Waste Commission.