§ 1854-d. Generator reporting and fees. 1. Reports. a. Any person who generates low-level radioactive waste in New York shall submit to the authority, on dates specified by the authority, but in no event later than nine months after the effective date of the low-level radioactive waste management act and, thereafter, no less frequently than annually, reports detailing the classes and quantities of low-level radioactive waste generated, stored by the generator for decay or for later transfer to other facilities, or transferred by the generator to other facilities, the general type of generator (e.g., medical, university, industry, electric utility, government), and such additional information as the authority may reasonably require on the nature and characteristics (including, without limitation, chemical and physical characteristics, properties, or constituents, radionuclides present, curie content or concentration of radioactivity) of such waste and the extent of reduction in quantity and the nature and extent of reduction or other change in the nature or characteristics of such waste as a result of treatment or interim storage after generation and before delivery to facilities for permanent disposal of such waste. The authority shall provide by regulation appropriate procedures for the preparation and submission of such reports, including procedures to designate a person or persons responsible for such filing when more than one person is the generator of the same waste. Such reports shall be subject to the provisions of article six of the public officers law.

b. Commencing no later than the first day of July nineteen hundred eighty-seven, the authority shall submit annually to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, and the minority leader of the assembly, and thereafter, not later than one hundred eighty days after the end of each calendar year, a report summarizing and categorizing, by type of generator and region of generation, the nature, characteristics, and quantities of low-level radioactive waste generated in New York during such calendar year.

2. Fees. a. (i) Pursuant to this title the authority shall, pursuant to regulations promulgated in accordance with article two of the state administrative procedure act, establish, revise, assess, and collect

reasonable rates, charges, or other fees upon the disposal of low-level radioactive waste generated in New York sufficient to fully recover all costs and expenses of the state and its agencies and authorities associated with low-level radioactive waste management facilities. Such assessed rates, charges, or other fees shall be paid to the authority in the manner, and accompanied by such returns, reports, or other documentation as the authority may prescribe. Fees paid shall be treated as expenses for purposes of recovery in rates. Surcharges collected by or for facilities which accept low-level radioactive waste generated in New York State for disposal pursuant to the Federal Low-level Radioactive Waste Policy Amendments of nineteen hundred eighty-five (Pub. Law 99-240), but deposited in escrow pursuant to section 5 (d) (2) of such law shall be paid to and received by the authority. Such payments shall be disbursed or transferred pursuant to this paragraph and shall be used for the purpose of reducing the amounts otherwise recoverable as assessments imposed pursuant to paragraph c of this subdivision.

(ii) The authority shall deposit the proceeds from such rates, charges, or other fees in a separate segregated account maintained solely for the purpose of holding such deposits. The authority shall first apply the proceeds of the account to payments of principal and interest on bonds, notes or other obligations issued by the authority for the purposes of the low-level radioactive waste management act. Upon appropriation or pursuant to other legislative authorization, disbursements or transfers from such account shall be made solely for other costs and expenses incurred under the low-level radioactive waste management act.

(iii) In establishing, revising, assessing, and collecting such reasonable rates, charges, or other fees associated with low-level radioactive waste management facilities or incurred under the low-level radioactive waste management act, the authority shall include, but need not be limited to, such amounts as will meet all incremental costs and expenses of:

A. selecting, developing, licensing, constructing, operating, and maintaining such facilities;

B. establishing reserves for related purposes, including, but not limited to, debt service, decontamination and decommissioning, closure, and post-closure care, and contingencies;

C. making reimbursements of expenditures from appropriations to state agencies or authorities to implement the low-level radioactive waste management act; and

D. making payments in lieu of taxes.

(iv) The authority may establish and revise, not inconsistent with federal law and regulation, reasonable classifications of low-level radioactive waste based upon the nature, class, characteristics (other than type of generator) or condition of such waste. The authority may utilize such classifications for purposes of establishing or revising the rates, charges, or other fees upon the disposal of such waste pursuant to paragraphs b and c of this subdivision.

b. Upon delivery of low-level radioactive waste to permanent disposal facilities owned or operated by the authority, the rates, charges, or other fees as established or revised by the authority for disposal of such waste at such facilities, and related services, shall be paid. Such rates, charges, or other fees shall be sufficient to meet all costs and expenses which may be reasonably and practically identified or allocated to permanent disposal facilities, over the life of such facilities, and the low-level radioactive waste disposed of at such facilities, including without limitation, all costs and expenses associated with: development, licensing, operation, maintenance, and meeting debt service requirements, or requirements for repayment of expenditures from appropriations for capital costs of such facilities, which requirements are due after such facilities begin accepting low-level radioactive waste; establishing reserves, including but not limited to reserves for decontamination and decommissioning, closure and post-closure care, and contingencies, including but not limited to potential accidents, damages, and injuries; and making any payments in lieu of taxes or fees for local assistance and repayments of any amounts expended from appropriations for aid to localities with respect to permanent disposal facilities, provided, however, that all capital costs

incurred prior to the receipt and acceptance of low-level radioactive waste at the disposal facilities shall be recovered in a period of not less than twenty years after such receipt and acceptance.

c. (i) During the period before the commencement of operation of permanent disposal facilities owned or operated by the authority, expenditures from appropriations to the departments of environmental conservation and health and the commission for siting low-level radioactive waste disposal facilities for the purpose of implementing the low-level radioactive waste management act shall be recovered through assessment against United States nuclear regulatory commission licensees for nuclear electric generating facilities located in the state of New York which have full power operating licenses. For the state fiscal year ending March thirty-first, nineteen hundred eighty-seven and each successive state fiscal year until commencement of operation of the permanent disposal facilities, the chairman of the authority shall estimate such expenditures and shall assess such estimated expenditures on a pro rata basis in proportion to the number of reactors with full power operating licenses of each such licensee. For the assessment for the state fiscal year ending March thirty-first, nineteen hundred eighty-seven, such estimated expenditures shall be based upon actual appropriations available to such state agencies for such fiscal year for such purpose and shall be billed by the authority as soon as practicable after the effective date of the low-level radioactive waste management act and paid by such licensees not later than December thirty-first, nineteen hundred eighty-six. For the assessment for each subsequent fiscal year, such estimated expenditures shall be based upon the proposed appropriations to such state agencies for such purpose, net of any over or under assessment for prior fiscal years compared to the latest available data on such expenditures for such prior fiscal years, and shall be billed by the authority on or before February first preceding such fiscal year and paid on or before April first of such fiscal year; provided, however, that a licensee may elect to make partial payments for such assessments on March tenth of the preceding fiscal year and on June tenth, September tenth, and December tenth of such fiscal year. Each such partial payment shall be an amount not less than twenty-five per centum of the total annual

assessment against such licensee for the relevant fiscal year. The authority shall establish and maintain records to account for assessments made against and received from each licensee. Upon receipt of such assessments, and pursuant to an agreement with the director of the budget, the authority shall transmit to the state comptroller such amount as shall be required to reimburse actual expenditures made and subject to assessment. The amounts so assessed, notwithstanding their assessment, shall be included as cost and expenses for purposes of computing and imposing rates, charges, or other fees pursuant to paragraphs a and b of this subdivision. In imposing such rates, charges, or other fees pursuant to such paragraph b, the authority shall provide a credit to the assessed licensees until such time as the aggregate of all such credits for a licensee shall equal the actual assessments paid by such licensee, plus interest at a reasonable market rate.

(ii) In the calculation of the assessment due pursuant to this paragraph for any fiscal year beginning on or after April first, nineteen hundred ninety-seven, the net of any over or under assessment for fiscal years ending on or before March thirty-first, nineteen hundred ninety-six, shall be deemed to be zero.

d. (i) The authority may refuse to accept at facilities established pursuant to section eighteen hundred fifty-four-b of this title any low-level radioactive waste generated by a person who has failed to submit to the authority, the one or more reports required by the authority pursuant to subdivision one of this section.

(ii) The proceeds of any penalty or interest collected pursuant to subparagraph (i) of paragraph a of subdivision three of this section shall be remitted to the authority for the purposes of the low-level radioactive waste management act.

3. Violations. a. Any failure or refusal to file a report, return, or other documentation, or related information, required pursuant to the provisions of this section shall be deemed a violation of the provisions of, and a failure to perform a duty imposed by, this section and shall be subject to the following civil and criminal penalties:

(i) By a civil penalty, in the case of a first violation, not to exceed five thousand dollars, and in the case of a second or subsequent

violation, a civil penalty not to exceed ten thousand dollars; which penalty may be assessed and collected by a court in any action or proceeding pursuant to subparagraph (ii) of this paragraph in addition to any criminal penalty which may be assessed for such violation.

(ii) By a misdemeanor, in the case of a willful violation by a person having any of the culpable mental states defined in section 15.05 of the penal law, which shall be deemed a misdemeanor, and upon a first conviction thereof, by a fine not to exceed five thousand dollars, or by imprisonment for a term of not more than six months, or both such fine and imprisonment; and, upon a second or subsequent conviction thereof, punishment by a fine not to exceed ten thousand dollars, or by imprisonment for a term of not more than one year, or by both such fine and imprisonment.

b. The attorney general shall institute such civil proceedings as the authority may request for the purpose of enforcing the provisions of this section, and such criminal proceedings as the authority may request for the purpose of prosecuting criminal violations of this section.

4. Upon appropriation or other legislative authorization and consistent with a repayment agreement executed with the director of the budget, the authority shall repay from the special account established pursuant to subparagraph (ii) of paragraph a of subdivision two of this section to the general fund, capital projects fund, or any other fund all amounts expended from appropriations made to the authority, the department of environmental conservation, the commission for siting low-level radioactive waste disposal facilities, the department of health, or the department of labor for actual and incremental expenses in the selection, development, licensing, construction, operation, maintenance, decontamination and decommissioning, closure and post-closure care of low-level radioactive waste management facilities, including any regulatory program associated therewith, or for aid to localities.

5. The authority may establish reasonable terms and conditions for receipt, acceptance or disposal of low-level radioactive waste at any facilities developed pursuant to section eighteen hundred fifty-four-c

of this title, including but not limited to packaging, identification of the nature and sources of the waste and the generators, shippers, or carriers of such waste, or other persons having any care or custody of such waste from the place of generation to arrival at such facilities, and requirements for bonds, insurance, or other forms of financial protection or assurance of performance by persons responsible for such waste.

6. Title to any low-level radioactive waste shall at all times remain in the generator of such waste, including the period following acceptance of such waste by the authority at the permanent disposal facilities. Acceptance at permanent disposal facilities shall not occur until completion of such inspection and examination of the waste and determination of compliance with applicable terms and conditions, including but not limited to payment of applicable fees, as the authority may require.

7. Notwithstanding the provisions of subdivision twelve of section eighteen hundred fifty-five of this title, the authority shall enter into agreements to pay annual sums in lieu of taxes to any municipality or taxing district of the state with respect to any real property acquired and held by the authority in the state or improvements to any real property held by the authority in the state, which real property was acquired or improvements were made after the effective date of the low-level radioactive waste management act and for the purposes of such act; provided, that any amount so paid shall be recovered through rates, charges, or other fees applicable to disposal of low-level radioactive waste, pursuant to subdivision two of this section.

8. Actions by the authority pursuant to the provisions of section eighteen hundred fifty-four-c of this title shall be subject, where applicable, to the environmental and judicial review provisions set forth in article twenty-nine of the environmental conservation law.