



Minnesota
Pollution
Control
Agency

LEGISLATIVE REPORT

Calendar Year 2001-2002 Biennial Report to the Governor and the Legislature on the

Activities of the Midwest Interstate Low-Level Radioactive Waste Compact Commission

(As required by Minn. Stat. Section 116C.833 Subd. 2)

History of the Compact

Minnesota has been a member of the Midwest Interstate Low-Level Radioactive Waste Compact (Compact) since 1983, when it joined six other midwest states to site, construct, and operate a regional low-level radioactive waste (LLRW) disposal facility. Statutes enacted at that time designated the Commissioner of the Minnesota Pollution Control Agency (MPCA) as the state's representative on the Compact Commission. This responsibility has been delegated to senior staff of the agency.

A nationwide system of such compacts was authorized by Congress when it enacted the Low-Level Radioactive Waste Policy Act of 1980. One provision of the federal law allowed existing disposal facilities (at that time three: Barnwell, South Carolina; Richland, Washington; and Beatty, Nevada) to close their doors to generators nationwide in 1994 so as to provide an incentive to states and compacts to go forward with developing their own disposal facilities.

To support these efforts, the U.S. Department of Energy collected surcharges during the 1980s and 1990s from all generators disposing of LLRW, with the bulk of the burden placed on nuclear electric utilities. The Midwest Compact received several million dollars from surcharges on waste disposal, using these funds to cover ongoing expenses of the Commission. The Midwest Compact also accumulated surcharges from the region's nuclear utilities, including Northern States Power, to be earmarked for site development activities only. Approximately \$10 million had been collected by mid-1987.

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Michigan was selected as the first host state for the regional disposal facility, but was expelled from the Compact in 1991 for failure to fulfill its obligations to site a facility. Among the six remaining states, Ohio was selected as host state and began its site development process. Ohio introduced facility siting legislation and negotiated Compact amendments with the remaining party states in the ensuing years, and adopted the legislation and associated Compact amendments in 1995. Minnesota incorporated these Compact amendments and related statutory changes into state law during the 1996 legislative session (H.F. 2207, Chapter 428), as did the other Compact states during 1996 and 1997. During this time, Ohio proceeded to set up a facility development authority and began statewide site screening activities. The timetable for development of a facility in Ohio projected an operational facility by about 2005.

In the meantime, on July 1, 1994, the Midwest Compact states did indeed lose access to the available disposal facilities. One year later, however, the Barnwell, South Carolina, facility unexpectedly reopened its doors to generators nationwide. The circumstances of its reopening suggested that Barnwell could continue for at least 20 years to accept low-level waste. It remains open to Midwest Compact waste generators at the time of this report. In addition, a second facility in Utah is licensed to accept a limited portion of the LLRW wastestream, and recently expanded these limits (but remains well short of the range of wastes accepted by Barnwell). As a result, the pressure on states and compacts to develop their own facilities was diminished by the availability (albeit uncertain) of disposal options nationally.

Synopsis: Previous Biennial Report

This is the third edition of the biennial report required by the 1996 amendments to Minn. Stats. 116C.833, Subd. 2., covering the activities of the Midwest Compact Commission. Minnesota remains a member of the Midwest Compact. The primary development reported in previous Biennial Reports was the 1997 decision by the Commission to suspend its efforts to site a low-level radioactive waste (LLRW) disposal facility in the six-state compact region. Three primary reasons for halting site development activities, which were ongoing in Ohio, were cited:

- Dwindling regional LLRW volumes,
- Continued access to existing disposal facilities, and
- The potentially high cost of developing a regional facility.

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CY 2001 - 2002 Activities

With the demise of the facility siting program, the main purpose of the Commission is now to track national and regional LLRW developments in order to ensure continuing access to disposal for LLRW generators in the Compact states. During 2001 and 2002, generators in Minnesota continued to have access to facilities in Barnwell, South Carolina, and Clive, Utah (Envirocare).

Efforts to get the State of Utah's approval for disposal of additional waste types as the Envirocare facility is still in progress. The cost for disposal at Envirocare may increase substantially, depending upon the results of a Utah ballot initiative that will, if passed, impose substantial fees on out-of-state waste and prohibit the disposal of some types of low-level radioactive waste at the facility. There have been no changes in the status of the Barnwell, South Carolina facility status and access could be denied any time after 2008.

Currently, there are approximately 20 potential generators of LLRW in Minnesota, of which only five accumulate and routinely ship significant quantities of LLRW: Nuclear Management Company, formerly Northern States Power; 3M; the University of Minnesota; Alliant Techsystems; and Hennepin County Medical Center. A few other hospitals, research labs and businesses infrequently (every several years) ship small quantities of LLRW for disposal.

All of these generators have the capability to safely store LLRW onsite for periods of from at least three to more than 10 years, according to surveys done in the early and mid-1990s. There is no current information from which to assess how the eight-year phase-out of access to Barnwell would affect these Minnesota facilities, but we believe the impacts in the short- to mid-term could easily be accommodated. We will, through our membership in the Midwest Compact, continue to track disposal availability issues that may affect Minnesota generators.

The MPCA will continue to monitor developments to ensure that perspectives and concerns of Minnesota generators are brought to regional and national policy forums and, to the extent possible, our generators' LLRW disposal needs are met into the foreseeable future. To those ends, MPCA staff will remain an active participant in the Midwest Compact Commission and will continue tracking national LLRW-related developments.

Finally, the Commission and the Minnesota representative rely on information provided by the Low Level Waste Forum (the Forum), a national organization of officials representing compacts and states. It is therefore worth noting that diminished funding for the Forum by the federal Department of Energy resulted in a decision by the organization to reconstitute itself in order to continue serving the needs of states and compacts.

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During 2000, it incorporated, rewrote its by-laws, and instituted a dues structure for participating states and compacts. Minnesota, as a member of the Midwest Compact, will not be directly liable for dues. Rather, existing Commission funds will be used to maintain Compact-wide membership (i.e., all six compact states) in the newly constituted LLW Forum.

For Further Information

Please contact Art Dunn, MPCA Policy and Planning Division, at (651) 215-0283 or toll-free/TDD (800) 657-3864 for further information regarding the activities reported here.

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