

2003 Report to the Legislature¹
On
The Status of Emergency Planning For
High-Level Radioactive Waste Transportation Accidents/Incidents,
And the Ability of the State to Respond Adequately to an Accident

Minnesota Department of Public Safety
Division of Homeland Security and Emergency Management

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Minnesota Statutes, Section 116C.731 directs the Commissioner of the Department of Public Safety (DPS) to "...prepare a plan for emergency response to a high-level radioactive waste transportation accident..." In response to this requirement, in 1984 the Department's (then) Division of Emergency Services (DES) coordinated the development of such a plan. In compliance with the statute, the Department of Health (MDH), the Department of Transportation (MNDOT), the State Patrol and the Minnesota Pollution Control Agency (MPCA) also participated in the preparation of this document. In 1987 DES became the Division of Emergency Management (DEM), and DEM coordinated the updating of the plan in March 1988, and April 1993. In 1995, in accord with an increased emphasis on all-hazard emergency planning and preparedness, DEM concluded that a change in the state's approach to emergency planning would be beneficial. Specifically, the decision was made to eliminate the stand-alone radioactive waste transportation plan, as well as the *Minnesota Emergency Response Plan for Nuclear Power Plants*, and to incorporate their contents into an all-new, all-hazard *Minnesota Emergency Operations Plan*. Copies of the new plan were distributed to all affected State agencies and departments, as well as a large number of other government entities and private organizations.

Section 116C.731 also requires the DPS Commissioner to report annually to the legislature on the "...status of the plan and the ability of the state to respond adequately to an accident." DEM addresses the "status of the plan" issue in two ways. First, in order to meet federal requirements in this area, the *Minnesota Emergency Operations Plan* (MEOP) is normally updated at least annually. The division coordinates this task, and in so doing, obtains the participation of and solicits comments from all of the state agencies represented on the Minnesota Emergency Preparedness and Response Committee. Following this approach, the MEOP has been updated every year since 1996. Due primarily to two factors – Minnesota's election of a new Governor and the need for additional terrorism response-related changes to update the MEOP for 2002 were delayed until March, 2003. The 2003 update is currently underway. It can be anticipated that during the next several years state agencies may well identify additional terrorism-related changes that need to be made to the MEOP; and/or the federal government may mandate that certain terrorism-specific items be added to that document. Lastly, in response to the substantial new homeland security responsibilities assigned to DEM, in 2003 the division's name was changed again, this time to the Division of Homeland Security and Emergency Management (HSEM).

¹ Prepared in compliance with Minnesota Statutes, Section 116C.731, Subd. 4.

Second, the division annually contacts the State Patrol, MDH and MNDOT and asks those agencies if they have any specific comments regarding the "status of the plan" question. (The MPCA no longer has any accident assessment responsibilities with respect to radioactive materials.) This year, of the aforementioned agencies, HSEM heard from MNDOT and from the State Patrol. The State Patrol indicated that it didn't have any (new) recommendations for changes; and noted that it had previously forwarded some changes that it suggested be incorporated in the 2003 updating of the MEOP that is currently underway. Likewise, MNDOT stated that the suggested MEOP changes that it had offered last year might still be valid this year. To the degree feasible and appropriate, HSEM will ensure that the MEOP changes suggested by the Patrol and by MNDOT are reflected in the 2003 update of that document. With regard to the updating, it should also be noted that, as a result of issues that came to the forefront during the November, 2003 Monticello Nuclear Generating Plant plume phase and ingestion phase exercises, HSEM anticipates that the federal government may require that certain other changes be incorporated into the 2003 update of the MEOP.

At the same time it solicits comments regarding the status of the plan, HSEM inquires as to whether the Department of Health, the State Patrol, and the Department of Transportation have any comments regarding "...the ability of the state to respond adequately to an accident." Neither the MDH nor the State Patrol forwarded any comments this year related to this question. The Department of Transportation indicated that the basic issues it had identified last year still applied. Those issues will be reviewed by the applicable HSEM staff, and potentially by the State's Homeland Security Advisory Council, to determine what additional actions, if any, may/should be taken in response to them.

In 1998, HSEM began focusing on an issue that relates directly to Minnesota's preparedness for and response to a potential HLRW transportation accident/incident. In that year, the division initiated discussions with Xcel Energy regarding the possible shipment by that Corporation of HLRW to a private storage facility that has yet to be constructed in the State of Utah. In 1999, 2000, 2001, 2002 and 2003 HSEM staff met with Xcel representatives in order to keep abreast of the status of the planned storage facility. Currently, Xcel anticipates that in the coming year the Atomic Safety and Licensing Board will issue a recommendation to the Nuclear Regulatory Commission (NRC) as to whether that body should grant the Utah facility a license. If a license is granted in 2004, Xcel anticipates that it will take approximately two years to construct the facility, and that it could be operational sometime in 2007. Barring a decision by the NRC to not grant a license, an extended delay in the completion of the facility, or the termination of the project altogether, in the next few years division staff will be coordinating closely with both Xcel personnel and other affected state and local government agencies on this project.

Another related HLRW issue of continuing concern has been discussed in the last several annual reports. That issue is the lack of funding for HLRW transportation accident/incident preparedness and response activities. There are two parts to this problem. First, Minnesota Statutes, Section 116C.731, Subdivision 3, requires shippers of HLRW to pay a \$1,000 fee for each vehicle carrying HLRW through the state of Minnesota. The statute also mandates that the fees are paid to the DPS commissioner, who in turn is to deposit them in the state's general fund. As explained in several previous reports, because the fees in question are deposited in the general fund, they are not accessible by the state agencies that will likely incur considerable expenses in order to prepare for and respond to HLRW shipments. Secondly, because the (potential) Xcel shipments discussed above would be considered shipments by a private company rather than U.S. Department of Energy shipments, they would not be subject to the provisions of Section 180(c) of the (U.S.) Nuclear Waste Policy Act. As a

result, the state of Minnesota would not be eligible to receive any DOE funding to cover the cost of the shipment-related training and exercising that might well be determined necessary in order to prepare for the shipments. Nor would federal funding be available to purchase additional radiation detection/protection equipment, should Minnesota determine that such equipment would be beneficial. Lastly, because both the starting date of the potential Xcel shipments to Utah and the number of those shipments each year can only be estimated at this time; planning for them is extremely difficult.

In the coming year, the division will continue to track high-level radioactive waste issues that may impact the state of Minnesota.