



OTHERS ATTENDING:

NAME/AGENCY	ADDRESS	TELEPHONE
Eugene Lee - Honolulu DPW	650 S. King St.	523-4159
Chris Takano - OEDA	650 S. King St.	523-4121
Mike Cripps - HEGR	250C #5 500 Alamoana Blvd	523-4657
Jim Vinton - Pacific Resources, Inc.	733 Bishop St.	547-3414
BILL NORRIS - STATE CIVIL DEFENSE		734-2161

BRIEF:  
DR. LEWIN  
DR. ANDERSON

RHONDA

MTG10.BRF-RG3

**HAWAII STATE EMERGENCY RESPONSE COMMISSION (HSERC)**

**Meeting #10**

Monday July 27, 1992  
9:00 a.m. - 12:00 noon

Department of Health's  
Kinau Hale Board Room, 1st Floor

1250 Punchbowl Street

**AGENDA**

I. Introductions (5 min) **DR. LEWIN**

A. Opening Remarks

Mark Ingoglia has resigned as the manager of the Office of Hazard Evaluation and Emergency Response, as most of you know his last day was May 15th. As of July 1st Steve Armann is the acting manager of the HEER Office. I would like to introduce him to you at this time.

B. We have a lot of business to accomplish today so it is important that we adhere to our Agenda. We want to be sure and finalize the HSERC Goals and Objectives by the end of our meeting today.

C. Discussion/Approval of Minutes from HSERC Meeting #9

II. Update by the Attorney General's Office (15 min)

**Dr. LEWIN** introduces Larry Lau Deputy Attorney General.

Sonia Faust has officially designated Judy So as Deputy Attorney General to support the HSERC.

However, Judy So is on maternity leave and will not be able to brief us today. Therefore, Larry Lau is filling in for Judy So today.

**BRIEF:**  
**DR. LEWIN**  
**DR. ANDERSON**

**III. Distribution of Hawaii's Oil and HAZMAT Operations Plan (5 Min) DR. LEWIN**

Hawaii's Oil and Hazardous Materials Emergency Response Plan has been completed and we would like to distribute the Plan today. Section J of your HSERC Handbooks has been set up for a copy of the Plan. If you need extra copies for your offices please contact Rhonda Goyke and she will provide them to you. We encourage you to all read the Plan and distribute it to any staff personnel who may need to refer to the information in an emergency. Please keep this Plan and all other contingency plans where they can readily be referenced and used.

**IV. Report on Other States' Programs (15 min)**

**DR. LEWIN** introduce Rhonda Goyke

**V. Available Grants (15 min) DR. LEWIN** introduces Steve Armann

Note: State Civil Defense has taken the lead for the HMTUSA Training and Planning Grant

**VI. Data Management Advisory Committee - Preliminary Report (15 min)**

**DR. LEWIN** introduces Rhonda Goyke

A Data Management Task Force met on June 23, 1992 to discuss the needs and objectives of a computerized system or systems for a statewide data management system.

BRIEF:  
DR. LEWIN  
DR. ANDERSON

VII. HSERC Goals & Objectives (90 min) **DR. LEWIN** leads with the assistance of Rhonda Goyke. Overheads have been prepared with the Draft Goals & Objective, comments and Revised Goals & Objectives based on the comments received. In addition, we have added some draft Action Steps for each objective that we need to edit.

A. Input on Draft Goals & Objectives

Draft goals and objectives were mailed out to all the HSERC members requesting comments. Some very insightful comments were received. We will go through the draft Goals & Objectives one item at a time and will discuss the comments that were received. Any addition comments will be added as we go through the list.

B. Finalize Goals & Objectives of the HSERC

HSERC vote to accept the Goals & Objectives as revised.

C. Brainstorming for action steps for each objective. We have drafted some preliminary Action Steps to begin the Brainstorming.

D. HSERC vote to accept action steps as determined by HSERC.

VIII. Schedule Next HSERC Meeting (#11) (5 min) **DR. LEWIN**

The HSERC should meet at least once and preferably twice more before the legislative session starts next year. We will be introducing a State EPCRA statute and will need everyone's support and input as we draft this very important State Law. When should the meeting(s) be scheduled?

*Sept next meeting*

DRAFT  
HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES

JULY 1992

**MISSION:** TO ESTABLISH EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW PROGRAMS IN HAWAII.  
THROUGH ADEQUATE PREPARATION AND PLANNING, THESE PROGRAMS WILL PREVENT AND  
MITIGATE RELEASES OF OIL AND HAZARDOUS SUBSTANCES IN HAWAII.

**COMMENTS:**

1. "will prevent" is too strong. Suggested language, "work towards prevention".
2. "Establish...programs" gives the wrong impression, we need to be public orientated. Do not imply that we are developing another "program". Suggested language, "Prevent and mitigate releases of oil and hazardous substances in Hawaii".

**REVISED MISSION:** TO STRIVE TOWARDS THE PREVENTION OF RELEASES OF OIL AND HAZARDOUS SUBSTANCES IN  
HAWAII AND TO MITIGATE THE AFFECTS OF RELEASES THAT MAY OCCUR IN HAWAII.

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HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES

JULY 1992

**GOAL:** TO PROVIDE STATE LEADERSHIP AND SUPPORT TO PLAN FOR, PREPARE FOR & PREVENT OIL AND HAZARDOUS SUBSTANCE EMERGENCIES IN THE STATE OF HAWAII.

**COMMENTS:** "prevent" is too strong. Suggested language "works towards the prevention of"

**REVISED GOAL:** TO PROVIDE STATE LEADERSHIP AND SUPPORT TO PLAN FOR, PREPARE FOR & WORK TOWARDS THE PREVENTION OF OIL AND HAZARDOUS SUBSTANCE EMERGENCIES IN THE STATE OF HAWAII.

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HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES

JULY 1992

**OBJECTIVES:**

1. COMPLIANCE WITH APPLICABLE LAWS

Establish a comprehensive state program for Emergency Planning and Community Right-to-Know Act (EPCRA) requirements in accordance with the mandates of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and all other applicable laws or regulations.

**COMMENTS:** "...and all other applicable laws or regulations" implies that the HSERC will take on responsibility other than the responsibilities outlines in EPCRA.

**REVISED:** Establish a comprehensive state program for Emergency Planning and Community Right-to-Know Act (EPCRA) requirements in accordance with the mandates of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and [all other applicable laws or regulations] revisions thereof.



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HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES

JULY 1992

**OBJECTIVES:**

2. PROGRAMMATIC ISSUES

Establish a funding mechanism and maintain capable personnel at the State and County levels to implement the mandates of EPCRA and the emergency planning and community right-to-know programs developed by the HSERC.

**COMMENTS:** This objective should be changed to LEGISLATIVE ACTIONS and should be expanded.

**REVISED:** LEGISLATIVE ACTIONS

- a. Promulgate state statutes equivalent to EPCRA.
- b. In addition, EPCRA should be expanded to establish a stable funding mechanism for the program based on reporting fees.
- c. Establish a state enforcement program, including fines and the distribution of the monies generated by the fines. Fines to be used to support the program.

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HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES

JULY 1992

**OBJECTIVES:**

3. DATA MANAGEMENT

Establish and maintain an effective, well coordinated State-wide data management system for Title III Emergency Planning and Community Right-to-Know information.

**COMMENTS:** Task Force currently working on recommendations.

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HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES

JULY 1992

**OBJECTIVES:**

4. SUPPORT AND GUIDANCE

Provide guidance and assistance to the LEPCs, as needed. Provide critical review of LEPC emergency response plans on an annual basis. Maintain the Hawaii State Oil and Hazardous Substance Emergency Response Plan. Ensure exercises are conducted to adequately evaluate and practice implementing the emergency response plans.

**COMMENTS:**

- a. "Provide guidance and assistance to the LEPCs" is mandated under EPCRA. Therefore, delete "as needed".
- b. Separate each sentence into individual items under "Support and Guidance".
- c. Annual update/revision of State Hazmat Plan is required.

**REVISED:** SUPPORT AND GUIDANCE

- a. Provide guidance and assistance to the LEPCs [, as needed].
- b. Provide critical review of LEPC emergency response plans on an annual basis.
- c. Maintain the Hawaii State Oil and Hazardous Substance Emergency Response Plan. Updated annually.
- d. Ensure exercises are conducted to adequately evaluate and practice implementing the emergency response plans.

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HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES

JULY 1992

**OBJECTIVES:**

5. TRAINING AND PREPAREDNESS

Assist in reviewing guidance and resources available to train appropriate personnel. Evaluate the adequacy of equipment available for oil and hazardous materials emergencies.

**COMMENTS:**

- a. Separate into two distinct and clear categories. #5 to be TRAINING and #6 to be RESOURCE MANAGEMENT. It was suggested that the appropriate personnel to accomplish such a task might be the State On-Scene Coordinators.
- b. Delete "Assist in".

**REVISED:**

5. TRAINING

Review guidance and resources available to train appropriate personnel.

6(new). RESOURCE MANAGEMENT

Compile a list of all resources available for oil and hazardous materials emergencies. Including resources of the following agencies, private industry (should be included in LEPC plans), RRT, FEMA, FEDERAL, DOA, USCG, Forestry Service, outer island etc.

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GOALS & OBJECTIVES

JULY 1992

**OBJECTIVES:**

6. OUTREACH

Establish and maintain a public outreach program to inform the community of the possible hazards in their community. Foster community involvement in local program planning and operations. Encourage industry to join the State in an effort to prepare for and prevent oil and hazardous materials emergencies.

**COMMENTS:** Delete "and operations", this implies that the public could be involved in emergency operations.

**REVISED:** 7(new #). OUTREACH

Establish and maintain a public outreach program to inform the community of the possible hazards in their community. Foster community involvement in local program planning [and operations]. Encourage industry to join the State in an effort to prepare for and prevent oil and hazardous materials emergencies.

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HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES

JULY 1992

**OBJECTIVES:**

7. EPCRA ENFORCEMENT

In cooperation and coordination with EPA, develop an effective enforcement program to compel responsible parties to comply with the mandates of EPCRA.

**COMMENTS:** None received.

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GOALS & OBJECTIVES

JULY 1992

**REVISED MISSION:** TO STRIVE TOWARDS THE PREVENTION OF RELEASES OF OIL AND HAZARDOUS SUBSTANCES IN HAWAII AND TO MITIGATE THE AFFECTS OF RELEASES THAT MAY OCCUR IN HAWAII.

**REVISED GOAL:** TO PROVIDE STATE LEADERSHIP AND SUPPORT TO PLAN FOR, PREPARE FOR & WORK TOWARDS THE PREVENTION OF OIL AND HAZARDOUS SUBSTANCE EMERGENCIES IN THE STATE OF HAWAII.

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HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES

JULY 1992

**REVISED OBJECTIVES:**

1. COMPLIANCE WITH APPLICABLE LAWS

Establish a comprehensive state program for Emergency Planning and Community Right-to-Know Act (EPCRA) requirements in accordance with the mandates of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and revisions thereof.

**ACTION STEPS:**

- a. HSERC accept mandates of EPCRA as minimum requirements.
- b. HSERC works towards fulfillment of EPCRA mandates.
- c. HSERC establishes additional requirements.



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GOALS & OBJECTIVES

JULY 1992

2. LEGISLATIVE ACTIONS

- a. Promulgate state statutes equivalent to EPCRA.
- b. In addition, EPCRA should be expanded to establish a stable funding mechanism for the program based on reporting fees.
- c. Establish a state enforcement program, including fines and the distribution of the monies generated by the fines. Fines to be used to support the program.

ACTION STEPS:

- a. Draft a State "EPCRA" statute.
- b. Introduce the bill to the legislature this session.
- c. Provide brief and testimony of the importance and necessity of such a statute.

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HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES

JULY 1992

3. DATA MANAGEMENT

Establish and maintain an effective, well coordinated State-wide data management system for Title III Emergency Planning and Community Right-to-Know information.

ACTION STEPS:

- a. Task Force to make recommendations.
- b. HSERC to determine the appropriate method to integrate a data management system for Hawaii.

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GOALS & OBJECTIVES

JULY 1992

4. SUPPORT AND GUIDANCE

- a. Provide guidance and assistance to the LEPCs.
- b. Provide critical review of LEPC emergency response plans on an annual basis.
- c. Maintain the Hawaii State Oil and Hazardous Substance Emergency Response Plan. Updated annually.
- d. Ensure exercises are conducted to adequately evaluate and practice implementing the emergency response plans.

ACTION STEPS:

- a. Develop a LEPC training manual.
- b. Work with individual LEPCs to establish priorities and type of assistance that is appropriate.
- c. Assist the LEPCs as agreed upon.
- d. Place priority on the LEPCs to update the Hazmat Plans.
- e. Review the adequacy of the Plans according to EPCRA, NRT-1 and NRT-1A.
- f. Forward the Plans to the RRT for review.
- g. Annually review of the State Hazmat plan due March 1993.
- h. Provide critique of exercises. Possibly through video taping of the exercises.

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GOALS & OBJECTIVES

JULY 1992

5. TRAINING

Review guidance and resources available to train appropriate personnel.

ACTION STEPS:

- a. Distribute "State of Hawaii Chemical Emergency Response Training Guidelines".
- b. Establish schedule and perform review of training guidance and resources.

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GOALS & OBJECTIVES

JULY 1992

6. RESOURCE MANAGEMENT

Compile a list of all resources available for oil and hazardous materials emergencies. Including resources of the following agencies, private industry (should be included in LEPC plans), RRT, FEMA, FEDERAL, DOA, USCG, Forestry Service, outer island etc.

ACTION STEPS:

- a. Delegate this task to the appropriate group for completion.
- b. Assure that this list is kept current.

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GOALS & OBJECTIVES

JULY 1992

7. OUTREACH

Establish and maintain a public outreach program to inform the community of the possible hazards in their community. Foster community involvement in local program planning [and operations]. Encourage industry to join the State in an effort to prepare for and prevent oil and hazardous materials emergencies.

ACTION STEPS:

- a. Continue and expand Public Interactive Program (user friendly simplified CAMEO program).
- b. Procure equipment for program installation at public libraries. Funded by State EPCRA statute.
- c. Maintenance of Public Interactive Program.

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GOALS & OBJECTIVES

JULY 1992

8. EPCRA ENFORCEMENT

In cooperation and coordination with EPA, develop an effective enforcement program to compel responsible parties to comply with the mandates of EPCRA.

ACTION STEPS:

- a. Develop an expert computer system.
- b. Staff required, positions established by State EPCRA statute.

## STATUS REPORT ON OTHER STATE PROGRAMS

OTHERSTA2.10-RG3

STATE	LEPC DIVISIONS	FEES FOR FUNDING	DATA MANAGEMENT	HAZARD ANALYSIS	SPECIAL HELPS	UNIQUE ASPECTS
ALABAMA	67 LEPCs by County	NO, but will be proposing legislation			Haz. materials advisory group was formed to assist the SERC. The SERC may receive grants, donations, or gifts of money, equip, supplies and services from any public, or private source to carry out its duties	SERC encourages establishing subcommittees, topics include: vulner. & haz. anal., community awareness, response & preparedness& training
ALASKA	10 LEPCs by Districts	NO, except Anchorage which has established fees to fund its program	Under development	Under development	SERC is updating or preparing guidance documents for LEPCs to use in emerg. planning, data management, and public outreach	Anchorage has passed its own Right-to-Know law
ARIZONA	15 LEPCs by County	NO	Computer purchased for LEPCS, testing of the CAMEO DOS program for a subsequent statewide system		Under state law facilities that handle EHS must prepare emergency response plans & submit to SERC, LEPC & FD	
ARKANSAS	75 LEPCs by County, plus Little Rock & N. Little Rock	NO	Established a system that will allow LEPCs access to infor collected under SARA Title III			



STATE	LEPC DIVISIONS	FEES FOR FUNDING	DATA MANAGEMENT	HAZARD ANALYSIS	SPECIAL HELPS	UNIQUE ASPECTS
CALIF	6 LEPCs by Mutual-aid districts	Fees collected through the haz. waste control account, \$1.5 million, local gov. may also charge fees	A survey was conducted to determine the data management systems of local gov. agencies & to investigate statewide haz. mater. data collection		Booklet comparing State & Fed. requirements, live video conferences to help businesses comply, & monthly SERC meetings, state law requires the state to develop a haz. mat. compliance assistance manual	Fac. must submit business plans if they have a haz. mat. as defined by state law, def. also applies to spills, registration of acutely haz mat required for certain quantities, a risk management prevention plan may also be required
COLO	56 LEPCs by County and multi county	NO, but See special helps	Plan to use libraries to make T-III info available to the public		A one-time appropriation of \$22,000 for support & \$20,000 for assessment & an implementation study including recommendations for the legislature	In addition to duties mandated by T-III, the SERC will make recommendations on resources available & needed for implementation, for proposed regulation & for policy regarding the implementation of T-III
CONNECT	156 LEPCs by Towns	NO	SAS statist. software pkg	SERC developed haz. anal. guidance/ LEPCs should request vulner. analysis from facil. subject to section 302 or perform analyses themselves	SERC produced the "Emerg. Resource Manual" for quick ID of response resources available at nearby facilities	SERC made educ. a priority, compliance brochure & informative citizen's guide, workshops & conferences. Without sufficient funding for its own staff, the SERC relies upon the staff of its members
DELAW	3 LEPCs by County, plus Wilmington	YES \$150,000	Computerized database		Conducts outreach program designed to inform & educate the general public	Originally 1 LEPC, didn't work, now LEPC divisions are by county and Wilmington
FLORIDA	11 LEPCs by Regional Division	YES \$2.3 Mill				

STATE	LEPC DIVISIONS	FEES FOR FUNDING	DATA MANAGEMENT	HAZARD ANALYSIS	SPECIAL HELPS	UNIQUE ASPECTS
GEORGIA	2 LEPCs Atlanta/ Fullerton County, & the rest	NO	One of 5 states in EPAs data management pilot project			Originally one LEPC
HAWAII	4 LEPCs by County	NO	Under development			Developing a user friendly computer Right-to-Know program for public access to T-III
IDAHO	6 LEPCs by DOT Districts	NO	Centralized at the State, using DOT mainframe computer, 2 terminal each county, CAMEO	Temp. research/ planning position to provide direct assist. to counties on haz/vul. analysis	Training by county upon request, brochure of general info. for the public, large scale mailing, compliance workshops	
ILLINOIS	102 LEPCs by County Plus Chicago	NO			The Haz. Materials Advisory Board was formed to assist state & local gov. & industry in dealing with haz. materials	
INDIANA	92 LEPCs by County	YES \$500,000			A 24 member advisory committee assists the SERC	Each LEPC is guaranteed a minimum of \$2500 in support from the state
IOWA	99 LEPCs by County	NO			Each county's public library will receive a complete set of Tier II data for public access	Facilities encouraged to submit Tier II on disk, state will supply free software

STATE	LEPC DIVISIONS	FEEES FOR FUNDING	DATA MANAGEMENT	HAZARD ANALYSIS	SPECIAL HELPS	UNIQUE ASPECTS
KANSAS	105 LEPCs by County 75-80% working well	YES \$220,000	HAZOX & J.T. Baker Chemical Library = MSDS & EPA Chem. Profiles, System will depend on state efforts	SERC developed a sample plan, suggests 2 methods for gathering info. for haz. anal. depending upon population	Training & outreach activities for lay LEPC members. Brochures, booklets & public service announ. on radio & TV. Some counties have written ordinances to give themselves enforcement powers	Equip. & computers for LEPCs via EPA 313 enforcement using beneficial offset penalties. Developed & using Expert Computer System for compliance & enforcement program
KENTUCKY	120 LEPCs by County	YES \$243,000			Public notices of addresses & meeting locations of LEPCs are published annually throughout the state	
LOUIS.	64 LEPCs by Parishes	YES \$290,064			The Dept. of Public Safety & Corrections serves as lead agency for the SERC	State law established 500 lb threshold for section 312 substances, EHS follow federal guidelines
MAINE	16 LEPCs by County	YES \$200,000 Plus			SERC has hired trainers, "train the trainer" technique	SERC should balance its needs with the scope of the subject facil. to establish a fee system that is reasonable for the facil. while assuring adequate funds to meet the needs of the SERC and LEPCs
MARYLND	23 LEPCs by County, plus 2 Cities	NO				Accepts Tier II on disk will supply free software
MASS.	351 LEPCs by City & Town	NO			DPH maintains a file on exempt facilities, published an "Employer's Guide to Title III of SARA"	Representatives of the Advisory Council are appointed by the Governor for two years

STATE	LEPC DIVISIONS	FEES FOR FUNDING	DATA MANAGEMENT	HAZARD ANALYSIS	SPECIAL HELPS	UNIQUE ASPECTS
MICHIGAN	83 LEPCs by County & 14 Municipal	NO, except Calhoun County which has a fee system			Washtenaw County passed its own right-to-know program, local health dept. has the auth. to require reporting, inspect, assess penalties, & to charge inspection fees	
MINN.	7 LEPCs by Regional Division	YES \$1.5 Mill Plus	Deposits of local plans in designated county libraries		SERC staffed by Depart. of Public Safety, expands section 311 & 312 reporting requirements	No representative may serve on both the state commission and a LEPC
MISS.	82 LEPCs by County	NO				
MISSOURI	12 Multi-County, St. Louis City & 57 single County LEPCs	NO			State Law added special reporting requirement for explosives, and a system for marking the location of haz. chem.	State law requires reporting of releases of petroleum products in excess of 500 gal for liq. or 300 cubic ft for gases
MONTANA	56 LEPCs by County	NO				
NEBRASKA	93 LEPCs by County	NO but currently considering a fee system				
NEVADA	16 LEPCs by County	YES \$300,000			Written goals & objectives	Monies collected the Yuccan Mnt. Low-Level Radioactive Waste Compact must be used to conduct a study on the development of a statewide system of radio communications in emerg. relating to the transport of haz. mat. in the state

STATE	LEPC DIVISIONS	FEES FOR FUNDING	DATA MANAGEMENT	HAZARD ANALYSIS	SPECIAL HELPS	UNIQUE ASPECTS
NEW HAMPSH	230 LEPCs by Municipal Division	NO			Activities in the following areas: Incident response plan & SOP, dev. of a resource ID program, dev. of a community haz. ID program, programs for local awareness, training & planning, workshops, grant assistance, & Legis. issues.	
NEW JERSEY	588 LEPCS by County & Municipal Divisions	YES, regulated facilities are assess a fee of \$2 per employee, minimum of \$50 per employer			Guidelines for prep of LEPC Plans, using "Standardized Text," LEPCs modify the text where their local operations differ	
NEW MEXICO	33 LEPCs by County	YES \$39,000				Failure to file properly or pay fines could result in up to \$5,000 in fines
NEW YORK	57 LEPCs by County, plus NY City	NO, Legis. that would provide funds has been passed by the state assembly but not the state senate	A computer lab has been established at the state fire academy for CAMEO training		The SERC has prepared guidance, computer software, and audiovisual aids to support LEPCs in their planning efforts	Governor also established a workgroup with representatives from industry & state & local gov. to meet 2 times a yr to advise the SERC recommending an implementation strategy & monitor the progress of T-III effort
N.CAROL.	6 LEPCs by Region (15-18 Counties Each)	NO, but 3 counties charge fees			Each LEPC has a coordinator and a trainer, a SARA Planner position has been added for implementation	Local gov. may charge fees

STATE	LEPC DIVISIONS	FEES FOR FUNDING	DATA MANAGEMENT	HAZARD ANALYSIS	SPECIAL HELPS	UNIQUE ASPECTS
N.DAKOTA	53 LEPCs by County	YES \$200-250,000	Computer system was developed to manage all the reporting, facility contacts, & other infor. to assist state & local planners		Form letter for farmers to fulfill Section 302 requirements	
OHIO	87 LEPCs by County	YES \$2.0 Mill LEPCs must go through SERC application process to receive Title III funding	Ohio EPA is respon. under state law, CAMEO & ARCHIE	SERC developed a "Cross Reference" that is an indexed checklist for the reviewers of the essential plan components, & assists LEPC in developing their plan	Planning to develop a technical assistance and guidance program for LEPCs, has developed a training and outreach program for LEPC members on compliance, LEPCs have enforcement authority, fines go to support the LEPC	SERC must also prepare a separate plan for the state, the state offers 15% discount on the fee to facilities that submit chem data by computer tape or diskette
OKLA	79 LEPCs by County & Federal installations	YES \$164,000			County plans include an annex containing site-specific information	1991 Session codified T-III into state law, defining the powers and authority of the SERC
OREGON	1, but City & County submit plans which will be integrated into the state plan	YES, programs finan using haz sub possession fee revenues, a separate petroleum load fee provides funds for emer. response teams	State fire marshal's office receives & incorporated most of the info into an existing database, the computer system combines MSDS & Tier II infor. haz. chem info is access from 4 national database & additional database are to be added		A statewide haz mat incident reporting system is in place & data is used for planning & funding decisions	State Fire Marshall may request info from Dept of Revenue, info used for compliance, may split into multiple LEPCs to benefit from HMTSA Grants (75% to the LEPCs)

STATE	LEPC DIVISIONS	FEES FOR FUNDING	DATA MANAGEMENT	HAZARD ANALYSIS	SPECIAL HELPS	UNIQUE ASPECTS
PENN.	67 LEPCs by County	YES \$1.2 Mill Plus	Emer. Operations database will also be used for Title III, the system will portray statewide site locations on digitized maps, capable of "zooming in" to specific sites, with graphic displays and backup data for each facility	Penalties will be split between county & HAZMAT Response Fund		SERC develop a model emerg plan, a general framework, the plan is available on diskette to help LEPCS automate the planning process
RHODE ISLAND	8 LEPCs by Mutual-aid Districts	NO, but the state has proposed legislation that would allow the SERC to establish & collect fees	Developing a database that will contain facility info. concerning emer planning, chem inventories, & annual emissions, this info will eventually be accessible to 1st responders with a modem & PC			
S.CAROL	46 LEPCs by County	NO, but currently considering a fee system				
S.DAKOTA	66 LEPCs by County	YES		FEMA plan is the basic plan EPCRA is an appendix	EPCRA requirements divided into 2 divisions: 1)reporting requirements & facilities and 2)emergnecy management = plans & LEPCs	Originally 6 planning districts but counties didn't work well together. Decided to use counties as LEPC districts due to existing infrastructure

STATE	LEPC DIVISIONS	FEES FOR FUNDING	DATA MANAGEMENT	HAZARD ANALYSIS	SPECIAL HELPS	UNIQUE ASPECTS
TENN.	95 LEPCs by County	NO				
TEXAS	254 LEPCs by County	YES \$150,000			Adopted "Texas Tier II" forms	Established thresholds for OSHA haz. sub. that are lower the federal thresholds
UTAH	29 LEPCs by County & 2 Cities	NO				
VERMONT	9 LEPCS, 6-1 County, plus 3 multi-county	YES \$180,000 plus				State requirements are more stringent than fed. requirements
VIRGINIA	73 LEPCS by County, 18 City, 2 Town, & 21 joint emerg planning districts, for a total of 114 LEPCs	NO	SERC responsible for the database, LEPC access with modem. Using the Emergency Information System/Chemical version software as the data mngment standard	SERC found using generic information on chem. haz more useful and effective, (MSDS ON DISC database)	Provides training & tech. assist. to LEPCs and the regulated Community. Developed outreach materials that have helped LEPCs recognize their responsibilities & provides assist. in fulfilling those responsibilities	Success depends on effective outreach campaign. LEPC roles goes far beyond Plan preparation
WASHING.	39 LEPCs by County & 25 City	NO				
W.VIRGIN.	40-1 County & 4-2 County LEPCs	YES, for 1992 a fee system will support the Title III program				



STATE	LEPC DIVISIONS	FEES FOR FUNDING	DATA MANAGEMENT	HAZARD ANALYSIS	SPECIAL HELPS	UNIQUE ASPECTS
WISCON.	72 LEPCs by County	YES \$1.4 Mill Plus, the fees fund an emer planning grant prog for LEPCs & 6 full-time positions			LEPCs must qualify for the grants: meet once a quarter, complete their plan, conduct an exercise annually, making progress on off-site fac plans, complete other required activities	
WYOMING	23 LEPCs by County	NO			The plans are reviewed & revised at least every 3 years on a rotating cycle	

JOHN WAIHEE  
GOVERNOR OF HAWAII



*M*  
*DDEN*

WARREN PRICE, III  
ATTORNEY GENERAL

RECEIVED  
OFFICE OF THE DIRECTOR  
DEPT. OF HEALTH  
ROBERT A. MARKS  
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII

DEPARTMENT OF THE ATTORNEY GENERAL  
REGULATORY DIVISION

92 JUN 23 P1:56

465 SOUTH KING STREET, ROOM 200  
HONOLULU, HAWAII 96813-2913  
(808) 587-3050  
FAX (808) 587-3077

June 15, 1992

TO: The Honorable John C. Lewin, M.D.  
Director of Health

THROUGH: The Honorable Warren Price, III *W*  
Attorney General

FROM: Sonia Faust *S.F.*  
Deputy Attorney General

SUBJECT: Emergency Response Commission Meetings

Deputy Attorney General Judy So will be assigned to assist the Hawaii State Emergency Response Commission. Ms. So is on maternity leave, but expects to return to the office next month and should be able to attend the July 27, 1992, meeting. If, for any reason she cannot attend that meeting, a substitute will be provided.

SF:kmf  
1526R

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH

P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE

June 4, 1992

MAINT.LST-RG3

To whom it may concern:

The Hawaii State Emergency Response Commission (HSERC) is in the process of updating our mailing list. Your name is currently on our list of people who in the past had requested that they be notified of HSERC meetings. In the spirit of reducing waste, the HSERC would like to update the list. We encourage the names of any and all people who are interested in the operations of the HSERC and the status of the Emergency Planning and Community Right-to-Know Program (EPCRA) in Hawaii to remain on the mailing list and become an active part of the Emergency Planning and Community Right-to-Know Program in Hawaii.

To remain on the HSERC mailing list please complete and return the attached form to:

The State Department of Health  
HEER Office  
5 Waterfront Plaza, Suite 250C  
500 Ala Moana Boulevard  
Honolulu, Hawaii 96813  
Attn: Rhonda Goyke

Thank you for your interest in the EPCRA program in Hawaii.

Sincerely,

Bruce S. Anderson, Ph.D.  
Deputy Director for Environmental Health

BSA:rg

enclosure

HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES  
May 1992

**MISSION:** TO ESTABLISH EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW PROGRAMS IN HAWAII. THROUGH ADEQUATE PREPARATION AND PLANNING, THESE PROGRAMS WILL PREVENT AND MITIGATE RELEASES OF OIL AND HAZARDOUS SUBSTANCES IN HAWAII.

**GOAL:** TO PROVIDE STATE LEADERSHIP AND SUPPORT TO PLAN FOR, PREPARE FOR & PREVENT OIL AND HAZARDOUS SUBSTANCE EMERGENCIES IN THE STATE OF HAWAII.

**OBJECTIVES:**

1. COMPLIANCE WITH APPLICABLE LAWS

Establish a comprehensive state program for Emergency Planning and Community Right-to-Know Act (EPCRA) requirements in accordance with the mandates of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and all other applicable laws or regulations.

2. PROGRAMMATIC ISSUES

Establish a funding mechanism and maintain capable personnel at the State and

County levels to implement the mandates of EPCRA and the emergency planning and community right-to-know programs developed by the HSERC.

3. DATA MANAGEMENT

Establish and maintain an effective, well coordinated State-wide data management system for Title III Emergency Planning and Community Right-to-Know information.

4. SUPPORT AND GUIDANCE

Provide guidance and assistance to the LEPCs, as needed. Provide critical review of LEPC emergency response plans on an annual basis. Maintain the Hawaii State Oil and Hazardous Substance Emergency Response Plan. Ensure exercises are conducted to adequately evaluate and practice implementing the emergency response plans.

5. TRAINING AND PREPAREDNESS

Assist in reviewing guidance and resources available to train appropriate personnel. Evaluate the adequacy of equipment available for oil and hazardous materials emergencies.

6. OUTREACH

Establish and maintain a public outreach program to inform the community of

the possible hazards in their community. Foster community involvement in local program planning and operations. Encourage industry to join the State in an effort to prepare for and prevent oil and hazardous materials emergencies.

7. EPCRA ENFORCEMENT

In cooperation and coordination with EPA, develop an effective enforcement program to compel responsible parties to comply with the mandates of EPCRA.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, Ca. 94105-3901

April 13, 1992

Dr. John C. Lewin, Chairman  
Hawaii State Emergency Response Commission  
Department of Health  
P.O. Box 3378  
Honolulu, Hawaii 96801

Dear Dr. Lewin:

EPA sends words of encouragement to members of the Hawaii State Emergency Response Commission and the four Local Emergency Planning Committees who will be participating in a workshop April 20 to review their roles and responsibilities. The interest and commitment to renew the vision and efforts of the SERC and LEPCs is to be applauded.

The workplan, as provided at the Hawaii SERC meeting in February 1992, delineates the status and accomplishments of those endeavors. It is believed that the roles of the SERC and LEPCs as defined in that workplan fulfill the minimum requirements for implementation of the Emergency Planning and Community Right-to-Know Act.

EPCRA did not fade away after the first emergency plans were required of SERCs and LEPCs in October 1988. Matter of fact, the roles and responsibilities have expanded. New federal laws enacted over the last two years have widened the scope of hazmat planning and hazmat response. Beyond implementation of the various sections of EPCRA, many LEPCs are participating or preparing to work on Local Area Plans and the supplements to regional contingency plans for areas of risk as required by the Oil Pollution Act of 1990. The Area Committees for OPA are being established under the direction of a federal On-Scene Coordinator. With state and local officials (such as SERCs and LEPCs) these plans are being enhanced for state and local contingency planning and response.

Planning and prevention activities are being required of the Clean Air Act Amendments and the Pollution Prevention Act. In the future, for example, facilities will need to submit risk management plans to states and local emergency planners and make the plans available to the public.

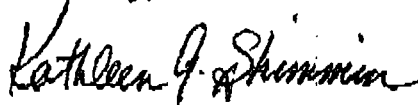
In another law passed in 1990, the Hazardous Materials Transportation and Uniform Safety Act will provide hazmat planning and training grants through the U.S. Department of Transportation. Seventy-five percent of the funds are earmarked to be used at the local level. In order to qualify, SERCs and LEPCs will need to certify compliance with the provisions of EPCRA.

EPA encourages the SERC and LEPCs to become familiar with these new laws to receive the full benefit of protecting their communities and environment.

If the Office of Health and Emergency Planning at EPA can be of any further assistance in supplying information about fulfilling the roles of the SERC and LEPCs, please let us know. The chemical emergency preparedness coordinator for Hawaii is Mike Ardito. He can be reached at (415) 744-2206. Mike regrets that due to tight travel budget constraints, EPA will be unable to attend the April 20 SERC/LEPC workshop and meeting. However, he has forwarded materials and information to be presented in EPA's absence.

Our office wishes the Hawaii SERC and LEPC members success and pride in accomplishing the goals of the continuing challenge to prevent or prepare for response to hazardous materials incidents. The residents and tourists of Hawaii will continue to value efforts to preserve their health in a fragile environment.

Sincerely,



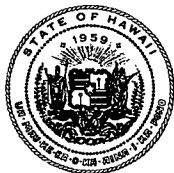
Kathleen G. Shimmin

Director

Office of Health & Emergency Planning

cc: B. Anderson  
M. Ingolia





**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**

P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE

June 4, 1992

MTG10.NOT-RG3

**MEMORANDUM**

**To:** The Hawaii State Emergency Response Commission  
(HSERC) Members

**From:** John C. Lewin, M.D., Chairman,  
The Hawaii State Emergency Response Commission

**Subject:** NOTICE FOR HSERC MEETING #10

A handwritten signature in black ink, appearing to be "John C. Lewin", written over a horizontal line.

**HSERC MEETING NOTICE**

This is to invite you to attend the next meeting of the Hawaii State Emergency Response Commission (HSERC) to be held Monday July 27, 1992, 9:00 a.m. to 12:00 noon. The meeting will be held at the Department of Health's Kinau Hale Board Room, 1st Floor, 1250 Punchbowl Street.

Topics to be discussed include HSERC Goals and Objectives and an update by the Attorney General's Office on legal issues. Please provide comments on the Draft Goals & Objectives to Rhonda Goyke by June 12, 1992. Comments regarding the Goals & Objectives will be compiled for discussion at the meeting. Also, please bring your "Hawaii State Emergency Response Commission" 3-ring binders with you to the meeting. We will be referring to information included in the binders at the meeting.

Please find enclosed a copy of a Draft HSERC Goals & Objectives, meeting agenda, draft minutes from HSERC meeting #9, and the final Meeting Summary for HSERC meeting #8. Parking permits have been requested for the commission members, and you will be kept informed regarding the status of the permits. If you have any questions, please contact Rhonda Goyke at 586-4277.

**Enclosures**

1. Agenda
2. HSERC Draft Meeting Summary April 20, 1992
3. HSERC Final Meeting Summary February 21, 1991
4. Draft HSERC Goals & Objectives

**JCL:RG**

## STATUS REPORT ON OTHER STATE EMERGENCY RESPONSE COMMISSIONS (SERC)

<u>STATE</u>	<u>LEPC DIVISIONS</u>	<u>FEES FOR FUNDING</u>	<u>DATA MANAGEMENT</u>	<u>HAZARD ANALYSIS</u>	<u>SPECIAL HELPS</u>	<u>OTHER INFORMATION</u>
ALABAMA	67 LEPCs by County	NO, but will be proposing legislation			Haz. materials advisory group was formed to assist the SERC. The SERC may receive grants, donations, or gifts of money, equip, supplies and services from any public, or private source to carry out its duties	SERC encourages establishing subcommittees, topics include: vulner. & haz. anal., community awareness, response & preparedness& training
ALASKA	10 LEPCs by Districts	NO	Under development	Under development	SERC is updating or preparing guidance documents for LEPCs to use in emerg. planning, data management, and public outreach	
ARIZONA	15 LEPCs by County	NO	Computer purchased for LEPCS, testing of the CAMEO DOS program for a subsequent statewide system			
ARKANSAS	75 LEPCs by County, plus Little Rock & N. Little Rock	NO				
CALIF	6 LEPCs by Mutual-aid districts	Fees collected through the haz. waste control account, \$1.5 million	A survey was conducted to determine the data management systems of local gov. agencies & to investigate statewide haz. mater. data collection		Booklet comparing State & Fed. requirements, live video conferences to help businesses comply, & monthly SERC meetings	

<u>STATE</u>	<u>LEPC DIVISIONS</u>	<u>FEEES FOR FUNDING</u>	<u>DATA MANAGEMENT</u>	<u>HAZARD ANALYSIS</u>	<u>SPECIAL HELPS</u>	<u>OTHER INFORMATION</u>
COLO	56 LEPCs by ?	NO, but See special helps			A one-time appropriation of \$22,000 for support & \$20,000 for assessment & an implementation study including recommendations for the legislature	
CONNECT	156 LEPCs by Towns	NO	SAS statist. software pkg	SERC developed haz. anal. guidance/ LEPCs should request vulner. analysis from facil. subject to section 302 or perform analyses themselves	SERC produced the "Emerg. Resource Manual" for quick ID of response resources available at nearby facilities	SERC made educ. a priority, compliance brochure & informative citizen's guide, workshops & conferences. Without sufficient funding for its own staff, the SERC relies upon the staff of its members
DELAW	3 LEPCs by County, plus Wilmington	YES \$150,000	Computerized database		Conducts outreach program designed to inform & educate the general public	
FLORIDA	11 LEPCs by Regional Division	YES \$2.3 Mill				
GEORGIA	2 LEPCs Atlanta/ Fullerton County, & the rest	No	One of 5 states in EPAs data management pilot project			
HAWAII	4 LEPCs by County	NO				

<u>STATE</u>	<u>LEPC DIVISIONS</u>	<u>FEEES FOR FUNDING</u>	<u>DATA MANAGEMENT</u>	<u>HAZARD ANALYSIS</u>	<u>SPECIAL HELPS</u>	<u>OTHER INFORMATION</u>
IDAHO	6 LEPCs by DOT Districts	NO	Centralized at the State, using DOT mainframe computer, 2 terminal each county, CAMEO	Temp. research/ planning position to provide direct assist. to counties on haz/vul. analysis	Training by county upon request, brochure of general info. for the public, large scale mailing, compliance workshops	
ILLINOIS	102 LEPCs by County Plus Chicago	NO			The Haz. Materials Advisory Board was formed to assist state & local gov. & industry in dealing with haz. materials	
INDIANA	92 LEPCs by County	YES \$500,000			A 24 member advisory committee assists the SERC	
IOWA	LEPCs by County	NO			Each county's public library will receive a complete set of Tier II data for public access	
KANSAS	105 LEPCs by County	YES \$220,000	HAZOX & J.T. Baker Chemical Library = MSDS & EPA Chem. Profiles, System will depend on state efforts	SERC developed a sample plan, suggests 2 methods for gathering info. for haz. anal. depending upon population	Training & outreach activities for lay LEPC members. Brochures, booklets & public service announ. on radio & TV	Key to success is strong leadership and a conviction that Title III must be a way of life. Some counties have written ordinances to give themselves enforcement powers
KENTUCKY	120 LEPCs by County	YES \$243,000			Public notices of addresses & meeting locations of LEPCs are published annually throughout the state	
LOUIS.	64 LEPCs by Parishes	YES \$290,064			The Dept. of Public Safety & Corrections serves as lead agency for the SERC	

<u>STATE</u>	<u>LEPC DIVISIONS</u>	<u>FEES FOR FUNDING</u>	<u>DATA MANAGEMENT</u>	<u>HAZARD ANALYSIS</u>	<u>SPECIAL HELPS</u>	<u>OTHER INFORMATION</u>
MAINE	16 LEPCs by County	YES \$200,000 Plus			SERC has hired trainers, "train the trainer" technique	SERC should balance its needs with the scope of the subject facil. to establish a fee system that is reasonable for the facil. while assuring adequate funds to meet the needs of the SERC and LEPCs
MARYLND	23 LEPCs by County, plus 2 Cities	NO				
MASS.	351 LEPCs by City & Town	NO			DPH maintains a file on exempt facilities, published an "Employer's Guide to Title III of SARA", representatives of the Advisory Council are appointed by the Governor for two years	
MICHIGAN	83 LEPCs by County & 14 Municipal	NO, except Calhoun County which has a fee system			Washtenaw County passed its own right-to-know program, local health dept. has the auth. to require reporting, inspect, assess penalties, & to charge inspection fees	
MINN.	7 LEPCs by Regional Division	YES \$1.5 Mill Plus			SERC staffed by Depart. of Public Safety, expands section 311 & 312 reporting requirements, deposits of local plans in designated county libraries	
MISS.	82 LEPCs by County	NO				

<u>STATE</u>	<u>LEPC DIVISIONS</u>	<u>FEEES FOR FUNDING</u>	<u>DATA MANAGEMENT</u>	<u>HAZARD ANALYSIS</u>	<u>SPECIAL HELPS</u>	<u>OTHER INFORMATION</u>
MISSOURI	12 Multi-County, St. Louis City & 57 single County LEPCs	NO			State Law added special reporting requirement for explosives, and a system for marking the location of haz. chem.	
MONTANA	56 LEPCs by County	NO				
NEBRASKA	93 LEPCs by County	NO				
NEVADA	16 LEPCs by County	YES \$300,000				Monies collected the Yuccan Mnt. Low-Level Radioactive Waste Compact must be used to conduct a study on the development of a statewide system of radio communications in emerg. relating to the transport of haz. mat. in the state
NEW HAMPSH	230 LEPCs by Municipal Division	NO			Activities in the following areas: Incident response plan & SOP, dev. of a resource ID program, dev. of a community haz. ID program, programs for local awareness, training & planning, workshops, grant assistance, & Legis. issues.	

<u>STATE</u>	<u>LEPC DIVISIONS</u>	<u>FEEES FOR FUNDING</u>	<u>DATA MANAGEMENT</u>	<u>HAZARD ANALYSIS</u>	<u>SPECIAL HELPS</u>	<u>OTHER INFORMATION</u>
NEW JERSEY	588 LEPCs by County & Municipal Divisions	YES, regulated facilities are assess a fee of \$2 per employee, minimum of \$50 per employer				Guidelines for prep of LEPC Plans, using "Standardized Text," LEPCs modify the text where their local operations differ
NEW MEXICO	33 LEPCs by County	YES \$39,000				
NEW YORK	57 LEPCs by County, plus NY City	NO, Legis. that would provide funds has been passed by the state assembly but not the state senate	A computer lab has been established at the state fire academy for CAMEO training			The SERC has prepared guidance, computer software, and audiovisual aids to support LEPCs in their planning efforts
N.CAROL.	6 LEPCs by Region (15-18 Counties Each)	NO				Each LEPC has a coordinator and a trainer, a SARA Planner position has been added for implementation
N.DAKOTA	53 LEPCs by County	YES \$200-250,000	Computer system was developed to manage all the reporting, facility contacts, & other infor. to assist state & local planners			

<u>STATE</u>	<u>LEPC DIVISIONS</u>	<u>FEES FOR FUNDING</u>	<u>DATA MANAGEMENT</u>	<u>HAZARD ANALYSIS</u>	<u>SPECIAL HELPS</u>	<u>OTHER INFORMATION</u>
OHIO	87 LEPCs by County	YES \$2.0 Mill LEPCs must go through SERC application process to receive Title III funding	Ohio EPA is respon. under state law, CAMEO & ARCHIE	SERC developed a "Cross Reference" that is an indexed checklist for the reviewers of the essential plan components, & assists LEPC in developing their plan	Planning to develop a technical assistance and guidance program for LEPCs, has developed a training and outreach program for LEPC members on compliance	SERC must also prepare a separate plan for the state, the state offers 15% discount on the fee to facilities that submit chem data by computer tape or diskette
OKLA	79 LEPCs by County & Federal installations	YES \$164,000			County plans include an annex containing site-specific information	
OREGON	1, but City & County submit plans which will be integrated into the state plan	YES, progs finan using haz sub possession fee revenues, a separate petroleum load fee provides funds for emer. response teams	state fire marshal's office receives & incorporated most of the info into an existing database, the computer system combines MSDS & Tier II infor. haz. chem info is access from 4 national database & additional database are to be added		A statewide haz mat incident reporting system is in place & data is used for planning & funding decisions	
PENN.	67 LEPCs by County	YES \$1.2 Mill Plus	Emer. Operations database will also be used for Title III, the system will portray statewide site locations on digitized maps,	capable of "zooming in" to specific sites, with graphic displays and backup data for each facility		SERC devel a model emerg plan, a general framework, the plan is available on diskette to help LEPCS automate the planning process



<u>STATE</u>	<u>LEPC DIVISIONS</u>	<u>FEEES FOR FUNDING</u>	<u>DATA MANAGEMENT</u>	<u>HAZARD ANALYSIS</u>	<u>SPECIAL HELPS</u>	<u>OTHER INFORMATION</u>
PUERTO RICO	9 LEPCs by CD Zones	NO				
RHODE ISLAND	8 LEPCs by Mutual-aid Districts	NO, but the state has proposed legislation that would allow the SERC to establish & collect fees	Developing a database that will contain facility info. concerning emer planning, chem inventories, & annual emissions, this info will eventually be accessible to 1st responders with a modem & PC			
S.CAROL	46 LEPCs by County	NO				
S.DAKOTA	66 LEPCs by County	NO				SERC members: 7 private citizens
TENN.	95 LEPCs by County	NO				
TEXAS	254 LEPCs by County	YES \$150,000			Adopted "Texas Tier II" forms	
UTAH	29 LEPCs by County & 2 Cities	NO				
VERMONT	9 LEPCS, 6-1 County, plus 3 multi-county	Yes \$180,000 plus				

<u>STATE</u>	<u>LEPC DIVISIONS</u>	<u>FEES FOR FUNDING</u>	<u>DATA MANAGEMENT</u>	<u>HAZARD ANALYSIS</u>	<u>SPECIAL HELPS</u>	<u>OTHER INFORMATION</u>
VIRGIN ISLANDS	3 LEPCS, St. Croix St. Thomas ST. Johns	NO				
VIRGINIA	73 LEPCS by County, 18 City, 2 Town, & 21 joint emerg planning districts, for a total of 114 LEPCs	NO	SERC responsible for the database, LEPC access with modem. Using the Emergency Information System/Chemical version software as the data mngment standard	SERC found using generic information on chem. haz more useful and effective, (MSDS ON DISC database)	Provides training & tech. assist. to LEPCs and the regulated Community. Developed outreach materials that have helped LEPCs recognize their responsibilities & provides assist. in fulfilling those responsibilities	Success depends on effective outreach campaign. LEPC roles goes far beyond Plan preparation
WASHING.	39 LEPCs by County & 25 City	NO				
W.VIRGIN.	40-1 County & 4-2 County LEPCs	YES, for 1992 a fee system will support the Title III program				
WISCON.	72 LEPCs by County	YES \$1.4 Mill Plus, the fees fund an emer planning grant prog for LEPCs & 6 full-time positions			LEPCs must qualify for the grants: meet once a quarter, complete their plan, conduct an exercise annually, making progress on off-site fac plans, complete other required activities	

<u>STATE</u>	<u>LEPC DIVISIONS</u>	<u>FEEES FOR FUNDING</u>	<u>DATA MANAGEMENT</u>	<u>HAZARD ANALYSIS</u>	<u>SPECIAL HELPS</u>	<u>OTHER INFORMATION</u>
WYOMING	23 LEPCs by County	NO				The plans are reviewed & revised at least every 3 years on a rotating cycle

## STATE AND LOCAL ROLES UNDER SARA TITLE III

<u>SECTION OF LAW</u>		<u>RESPONSIBILITY</u>	
Sec 301	(a)	Establish State Commission	State
		Appoint local emergency planning committees	State
		Supervise & coordinate LEPC activities	State
		Establish public request procedures	State
		Designate information coordinator	State
	(b)	Establish Emergency Planning Districts	State
	(c)	Appoint committees/assure minimum representation	State
		Committee to appoint chairperson	Local
		Establish committee rules	Local
		Establish committee procedures for public requests	Local
Designate committee information coordinator		Local	
Sec 302	(b)(2)	Designate and notify additionally covered facilities	State
	(d)	Notify EPA of covered facilities	State
Sec 303	(a)	Complete emergency plan	Local
	(b)	Make recommendations on resources required to develop, implement and exercise plan	Local
	(e)	Review and make recommendations on plan(s)	State
Sec 311	(c)(1)	Provide MSDS upon request	Local
Sec 312	(e)	Receive Tier II information	State & Local
Sec 313	(a)	Receive toxic chemical release forms	State
	(b)(2)	Discretionary application to additional facilities	State
	(e)	Petition for additional or deletion of listed chemicals	State

## SARA TITLE III

CURRENT STATUS:  
STATE & LOCAL ROLES & RESPONSIBILITIES  
WITH WORKLOAD ANALYSIS

<u>PRIORITIZED STATE OR HSERC MANDATORY RESPONSIBILITIES</u>	<u>STATUS</u>	<u>FTE (MINIMUM WORKLOAD)</u>
1. Establish State Commission	Accomplished	0
2. Establish Emergency Planning Districts	Accomplished	0
3. Appoint Local Emergency Planning Committees/Ensure Minimum Representation	Accomplished	0
4. Designate Information Coordinator	Accomplished	0
5. Receive Tier II Information	On Going	8 wks
6. Receive Toxic Chemical Release Forms	On Going	4 wks
7. Supervise & Coordinate LEPC Activities	On Going	3 wks
8. Annual HSERC Meeting	On Going	2 wks
9. Establish Public Request Procedures	Draft Completed	1 wk/final
10. Review and Make Recommendations on Emergency Plans Prepared by the LEPCs	Review Due	3 wks
11. May Designate and Notify Additionally Covered Fac. and Notify EPA of Such Facilities (Sec. 302)	As Needed	TBD
12. May Request Discretionary Fac. Info. (Sec. 312)	As Needed	TBD
13. May Petition EPA for Addition or Deletion of Listed Chemicals	As Needed	TBD
<b>ESTIMATED YEARLY TIME REQUIRED FOR MANDATORY HSERC REQUIREMENTS</b>	<b>21 wks</b>	<b>.55 FTE</b>
<u>OPTIONAL HSERC RESPONSIBILITIES</u>	<u>STATUS</u>	<u>FTE</u>
1. Fully implement Title III Data Management Plan	On Going UH Contract 9/30/92 complete date	4 wks
2. Public Outreach Project (UH \$70,000 contract, integrate into existing Data Management System)	On Going	4 wks
3. Emergency Response Exercises	On Going	2 wks
4. Staff the HSERC	On Going	3 wks
5. Facility coordination & information	To Do	3 wks
6. HSERC meeting every 6 months	To Do	2 wks
<b>ESTIMATED YEARLY TIME REQUIRED FOR OPTIONAL HSERC REQUIREMENTS</b>	<b>18 wks</b>	<b>.45 FTE</b>
<b>TOTAL FTE FOR HSERC</b>	<b>39 wks</b>	<b>1 FTE</b>

<u>MANDATORY LOCAL OR LEPC RESPONSIBILITIES</u>	<u>STATUS</u>	<u>FTE</u>
1. Committee to Appoint Chair		
Oahu	Accomplished	0
Maui	Accomplished	0
Kauai	Accomplished	0
Hawaii	Accomplished	0
2. Initial Emergency Plan		
Oahu	Accomplished	0
Maui	Accomplished	0
Kauai	Accomplished	0
Hawaii	Accomplished	0
3. Receive Tier II Information		
Oahu	Accomplished	1 wk
Maui	Accomplished	1 wk
Kauai	Accomplished	1 wk
Hawaii	Accomplished	1 wk
4. Provide MSDS upon request		
Oahu	On Going	1 wk
Maui	On Going	1 wk
Kauai	On Going	1 wk
Hawaii	On Going	1 wk
5. Annual LEPC meeting		
Oahu	3/11/92	8 hrs
Maui	To Do	2 wks
Kauai	To Do	2 wks
Hawaii	To Do	2 wks
6. Annual Review & Update of Emerg. Plan		
A. General Requirements		
(1) Designate a community emergency coordinator	To Do	1 hr
(2) Revise plan annually	To Do	2 wks
(3) Identify community & facility equip. & person(s) responsible	To Do	1 wk
(4) Emergency release notification procedures	Accomplished	0
(5) Determine methods & procedures to be followed by:		
(a) facility owners & operators	Accomplished On Tier II's	0
(b) local emergency response personnel	Accomplished	0
(c) medical personnel	To Do	?
(6) Training:		State
(a) local emergency response personnel	On Going	.3 FTE
(b) medical personnel	To Do	??
(7) Emerg. exercises, methods & schedules	To Do	1 hr

Total LEPC time required for general emergency planning

Oahu	1 wk to finalize	.03 FTE
Maui	3 wks	.08 FTE
Kauai	3 wks	.08 FTE
Hawaii	3 wks	.08 FTE

B. Hazard Analysis Requirements - Note: This is the actual number of EHS facilities reporting to date (per FD & CD update 2/14/92). Enforcement has not been a priority for any of the counties except Maui.

(1) Identify

(a) Facilities	Accomplished	0
(b) Routes - (1 hr/EHS facility)		
Oahu 236	85% complete	1 wk
Maui 45	To Do	1 wk
Kauai 75	To Do	2 wks
Hawaii 12	To Do	12 hrs
(c) Additional facilities contributing to risk &/or subject to risk due to proximity (1 hr/fac)		
Oahu 236	85% complete	1 wk
Maui 45	To Do	1 wk
Kauai 75	To Do	2 wks
Hawaii 12	To Do	12 hrs
(2) Designate facility emergency coordinator	Accomplished	On Tier II's
(3) Determine release detection & area or population likely to be affected (8 hrs/fac.)		
Oahu 236 fac	85 % complete	7 wks
Maui 45	To Do (started)	9 wks
Kauai 75	To Do	15 wks
Hawaii 12	To Do	2.5 wks
(4) Evacuation plans (2 hrs/fac)		
Oahu 236	85 % complete	1.8 wks
Maui 45	To Do	2.5 wks
Kauai 75	To Do	3.8 wks
Hawaii 12	To Do	.5 wks

Time required for Hazard Analyses (facilities could be required to provide this information to the LEPC)

Oahu	11 wks	.3 FTE
Maui	14 wks	.35 FTE
Kauai	23 wks	.6 FTE
Hawaii	4 wks	.1 FTE

7. Establish Committee Rules

Oahu	To Do	3 wks
Maui	To Do	3 wks
Kauai	To Do	3 wks
Hawaii	To Do	3 wks

8. Establish Procedures for Public Request

Oahu	Draft	8 hrs/final
Maui	To Do	1 wk
Kauai	Accomplished	0
Hawaii	To Do	1 wk

9.	Designate Committee Information Coordinator		
	Oahu	Accomplished	0
	Maui	To Do	1 hr
	Kauai	Accomplished	0
	Hawaii	To Do	1 hr
10.	Make Recommendations on Resources Required to Develop, Implement and Exercise Plan		
	Oahu	To Do	1 wk
	Maui	To Do	1 wk
	Kauai	50 % Complete	.5 wk
	Hawaii	To Do	1 wk

**ESTIMATED YEARLY TIME REQUIRED FOR MANDATORY LEPC REQUIREMENTS**  
(based on 200 dy/yr=FTE)

**WITH Hazard Analyses**

Oahu	19 wks	.5 FTE
Maui	26 wks	.65 FTE
Kauai	34 wks	.85 FTE
Hawaii	16 wks	.4 FTE

**WITHOUT Hazard Analyses**

Oahu	8 wks	.2 FTE
Maui	12 wks	.3 FTE
Kauai	11 wks	.3 FTE
Hawaii	12 wks	.3 FTE

**OPTIONAL LEPC RESPONSIBILITIES**

**STATUS**

**FTE**

1.	Input Tier II Data according to Title III Data Management Plan		
	Oahu	FD Accomplished	4 wks
	Maui	FD Accomplished	4 wks
	Kauai	CD Accomplished	4 wks
	Hawaii	FD Partial	4 wks
2.	Upgrade computer system to CAMEO 3.0		
	Oahu FD	Accomplished	0
	CD	To Do (IBM D-Base4)	2 wks
	Maui FD	Accomplished	0
	CD	To Do (No Computer)	2 wks
	Kauai FD	To Do (No Computer)	2 wks
	CD	Accomplished	0
	Hawaii FD	To Do	2 wks
	CD	To Do	2 wks
3.	Emergency Plan Exercise (emphasis on plan)		
	Oahu	3/4/92	1 wk
	Maui	Partial	2 wks
	Kauai	Partial	2 wks
	Hawaii	Partial	2 wks
4.	LEPC meeting every 6 months		
	Oahu	To Do	2 wks
	Maui	To Do	2 wks
	Kauai	To Do	2 wks
	Hawaii	To Do	2 wks

**ESTIMATED YEARLY TIME REQUIRED FOR OPTIONAL LEPC RESPONSIBILITIES**

Oahu	10 wks	.25 FTE
Maui	10 wks	.25 FTE
Kauai	10 wks	.25 FTE
Hawaii	12 wks	.3 FTE



STATEWIDE TRAINING - STATE CIVIL DEFENSE	12 wks	.3 FTE
TOTAL LEPC FTE REQUIRED, without Haz. Anal.		
Oahu	18 wks	.45 FTE
Maui	22 wks	.55 FTE
Kauai	21 wks	.55 FTE
Hawaii	24 wks	.6 FTE
TOTAL LEPC FTE REQUIRED, including Haz. Anal.		
Oahu	29 wks	.75 FTE
Maui	36 wks	.9 FTE
Kauai	44 wks	1.1 FTE
Hawaii	28 wks	.7 FTE

## SUMMARY

## HSERC &amp; LEPC RESPONSIBILITIES, PRIORITIES &amp; WORKLOAD ANALYSIS

1.	HSERC	<u>FTE</u>
	A. Required responsibilities	.55
	B. Optional or additional responsibilities	.45
	<b>TOTAL FTE FOR HSERC RESPONSIBILITIES</b>	<b>1</b>
2.	LEPC	
	A. Required responsibilities, no Haz. Anal.	
	Oahu	.2 FTE
	Maui	.3 FTE
	Kauai	.3 FTE
	Hawaii	.3 FTE
	B. Hazard analysis only	
	Oahu	.3 FTE
	Maui	.35 FTE
	Kauai	.6 FTE
	Hawaii	.1 FTE
	C. Required responsibilities, with Haz. Anal.	
	Oahu	.5 FTE
	Maui	.65 FTE
	Kauai	.85 FTE
	Hawaii	.4 FTE
	D. Optional or additional responsibilities	
	Oahu	.25 FTE
	Maui	.25 FTE
	Kauai	.25 FTE
	Hawaii (both the FD & CD needs CAMEO 3.0)	.3 FTE
	<b>TOTAL FTE FOR LEPC RESPONSIBILITIES without Hazard Analyses</b>	
	Oahu	.45 FTE
	Maui	.55 FTE
	Kauai	.55 FTE
	Hawaii	.6 FTE
	<b>TOTAL FTE FOR LEPC RESPONSIBILITIES with Hazard Analyses</b>	
	Oahu	.75 FTE
	Maui	.9 FTE
	Kauai	1.1 FTE
	Hawaii	.7 FTE

## I. OPENING REMARKS

HSERC Chairman, Dr. Lewin, called the meeting to order and outlined the agenda. The primary topic on the agenda was LEPC Update & Status of State Implementation. Dr. Lewin mentioned that other agenda items may need to be deferred until the next meeting, with the exception of one item to be added by Roy Price when the recommendation section of the meeting was reached.

## II. LEPC UPDATE & STATUS OF STATE IMPLEMENTATION

### A. Background & Overview

Mark Ingoglia reported that this was the first HSERC meeting in over a year. The meeting planned for December was postponed due to scheduling problems and the need to establish a clear agenda. In February, several HSERC members met to discuss the relationship between Title III, the HSERC, the LEPCs, and the lack of resources, in a meeting sponsored by State Civil Defense. As staff to the HSERC, DOH analyzed the information generated in the SCD meeting to determine the status of each Counties implementation actions and what resources would be required to fulfill Title III. Mark further stated the need to go back to the basics and determine what is mandated under the law, and what can be done with the limited available resources to comply with the law as much as possible. Mark then introduced his staff, Claire Hong and Rhonda Goyke.

### B. Analyses

Rhonda Goyke reported on the roles and responsibilities of the HSERC and the LEPCs as stated in Title III. An updated status report was presented for both the HSERC and for the LEPCs by county, per Title III requirements. The analysis also included a workload analysis which estimated the amount of time that would be required to comply with each point of the law. The complete analysis and summary sheet are attached.

### C. Conclusions & Options

Mark Ingoglia commented that everyone recognizes that one of the big problems when Title III came on line was concurrently complying with Title III while taking over hazmat response at the state and county level. Faced with the competing demands for resources to implement Title III and to develop first responder capabilities, the LEPCs and the HSERC concentrated their efforts on the latter. The LEPCs have been doing a good job as first responders and now the State has four on-scene coordinators and 24 hour standby.

While many of the Title III requirements are being met by the HSERC and the LEPCs, additional planning work needs to be done. There was general agreement that the HSERC should meet more frequently. Mark presented staff recommendations that the HSERC consider meeting twice a year. The HSERC staff also recommended that the HSERC request the annual plans from the LEPCs.

Mark noted that Rhonda's presentation was designed to address the LEPCs' past

the applicant's claim of the use of the print, label, trademark, service mark, or trade name throughout the State, for the term of one year from the date thereof; provided that the director shall not register any print, label, trademark, service mark, or trade name which is substantially identical with any registered print, label, trademark, service mark, or trade name or with the name of any corporation or partnership registered in accordance with chapters 415, 415A, 415B, 416, 418, and 425; provided further that the print, label, trademark, service mark, or trade name is continued in actual use by the applicant in the State or elsewhere in the United States or is registered in the name of the applicant in the patent and trademark office of the United States. The acceptance of an application and issuance of a certificate of registration by the director shall not abrogate or limit any common law or other right of any person to any corporation or partnership name, trade name or trademark.

The registration of a print, label, trademark, service mark, or trade name may be renewed at any time during a period of its registration for additional periods of ten years from the date of renewal by the filing of an application for renewal of registration in the form as the director may provide. Upon filing the application for renewal the applicant shall pay the director a fee of \$25, of which \$15 shall be deposited in the special fund authorized by section 415-128, and the balance deposited to the general fund of the State.

The director may make, amend, and repeal such rules as may be necessary to carry out the purposes of this section. [L 1888, c 4, §4; RL 1925, §3576; am L 1925, c 174, pt of §1; am L Sp 1933, c 29, §1; RL 1935, §7452; RL 1945, §9287; RL 1955, §204-3; am L Sp 1959 2d, c 1, §15; am L 1963, c 114, §3; am L 1965, c 109, §1; HRS §482-3; am L 1980, c 26, §4; am L 1982, c 204, §8; am L 1983, c 124, §17; am L 1984, c 118, §7; am L 1987, c 22, §4; am L 1988, c 141, §54]

Note

Chapters 416 and 418, to which this section refers, are repealed.

**[CHAPTER 482B]**  
**TRADE SECRETS**

SECTION	
482B-1	SHORT TITLE
482B-2	DEFINITIONS
482B-3	INJUNCTIVE RELIEF
482B-4	DAMAGES
482B-5	ATTORNEY'S FEES
482B-6	PRESERVATION OF SECRECY
482B-7	STATUTE OF LIMITATIONS
482B-8	EFFECT ON OTHER LAW
482B-9	SEVERABILITY

**[§482B-1] Short title.** This chapter may be cited as the Uniform Trades Secrets Act. [L 1989, c 221, pt of §1]

**[§482B-2] Definitions.** As used in this chapter, unless the context requires otherwise:

"Improper means" includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.

"Misappropriation" means:

§206M-2 Establishment of the high technology development corporation; purpose. (a) There is established the high technology development corporation, which shall be a public body corporate and politic and an instrumentality and agency of the State. The development corporation shall be placed within the department of business, economic development, and tourism for administrative purposes, pursuant to section 26-35. The purpose of the development corporation shall be to facilitate the growth and development of the commercial high technology industry in Hawaii. Its duties shall include, but not be limited to: developing industrial parks as high technology innovation centers and the developing of projects within or outside of industrial parks; providing support and services to Hawaii-based high technology companies; collecting and analyzing information on the state of commercial high technology activity in Hawaii; promoting and marketing Hawaii as a site for commercial high technology activity; and providing advice on policy and planning for technology-based economic development.

(b) The governing body of the development corporation shall consist of a board of directors having nine voting members. Seven of the members shall be appointed by the governor for staggered terms pursuant to section 26-34. Six of the appointed members shall be from the general public and selected on the basis of their knowledge, interest, and proven expertise in, but not limited to, one or more of the following fields: finance, commerce and trade, corporate management, marketing, economics, engineering, and telecommunications, and other high technology fields. The other appointed member shall be selected from the faculty of the University of Hawaii. All appointed members of the board shall continue in office until their respective successors have been appointed. The director of business, economic development, and tourism and the director of finance, or their designated representatives, shall serve as ex officio voting members of the board. The director of business, economic development, and tourism shall serve as the chairperson until such time as a chairperson is elected by the board from the membership. The board shall elect such other officers as it deems necessary.

(c) The members of the board appointed under subsection (b) shall serve without compensation, but may be reimbursed for expenses, including travel expenses, incurred in the performance of their duties.

(d) The board shall appoint a chief executive officer, who shall serve at the pleasure of the board and shall be exempt from chapters 76 and 77. The board shall set the salary and duties of the executive officer.

(e) The board shall appoint a management advisory committee for each industrial park and project governed by the board. Each committee shall have five members, who shall serve without compensation but may be reimbursed for expenses incurred in the performance of their duties. The members shall be drawn from fields of activity related to each project or park. [L 1983, c 152, pt of §2; am L 1987, c 336, §7; am L 1989, c 274, §2; am L 1990, c 293, §8; am L 1991, c 288, §1]

§206M-2.5 Meetings of the board. (a) The meetings of the board shall be open to the public as provided in section 92-3, except that when it is necessary for the board to receive information that is proprietary to a particular enterprise that seeks entry into or use of one of its facilities or the disclosure of which might be harmful to the business interests of the enterprise, the board may enter into an executive meeting that is closed to the public.

(b) The board shall be subject to the procedural requirements of section 92-4, and this authorization shall be an addition to the exceptions listed in section 92-5, to enable the development corporation to respect the proprietary requirements of enterprises with which it has business dealings. [L 1989, c 274, pt of §1]

## TRADE REGULATION AND PRACTICE

- (1) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or
- (2) Disclosure or use of a trade secret of another without express or implied consent by a person who:
  - (A) Used improper means to acquire knowledge of the trade secret; or
  - (B) At the time of disclosure or use, knew or had reason to know that the person's knowledge of the trade secret was:
    - (i) Derived from or through a person who had utilized improper means to acquire it;
    - (ii) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or
    - (iii) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or
  - (C) Before a material change of the person's position, knew or has reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

"Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

"Trade secret" means information, including a formula, pattern, compilation, program device, method, technique, or process that:

- (1) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. [L 1989, c 221, pt of §1]

[§482B-3] **Injunctive relief.** (a) Actual or threatened misappropriation may be enjoined. Upon application to a circuit court of the State, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time in order to eliminate commercial advantage that otherwise would be derived from the misappropriation.

(b) In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited. Exceptional circumstances include, but are not limited to, a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable. The alleged wrongful user shall bear the burden of proof of exceptional circumstances.

(c) In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order. [L 1989, c 221, pt of §1]

[§482B-4] **Damages.** (a) Except to the extent that a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation renders a monetary recovery inequitable, a complainant is entitled to recover damages for misappropriation. Damages can include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss. In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret.

(b) If wilful and malicious misappropriation exists, the court may award exemplary damages in an amount not exceeding twice any award made under subsection (a). [L 1989, c 221, pt of §1]

**[§482B-5] Attorney's fees.** The court may award reasonable attorney's fees to the prevailing party if:

- (1) A claim of misappropriation is made in bad faith;
- (2) A motion to terminate an injunction is made or resisted in bad faith; or
- (3) Wilful and malicious misappropriation exists. [L 1989, c 221, pt of §1]

**[§482B-6] Preservation of secrecy.** In an action under this chapter, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval. [L 1989, c 221, pt of §1]

**[§482B-7] Statute of limitations.** An action for misappropriation must be brought within three years after the misappropriation is discovered or by the exercise of reasonable diligence should have been discovered. For the purposes of this section, a continuing misappropriation constitutes a single claim. [L 1989, c 221, pt of §1]

**[§482B-8] Effect on other law.** (a) Except as provided in subsection (b) this chapter displaces conflicting tort, restitutionary, and other law of this State providing civil remedies for misappropriation of a trade secret.

(b) This chapter does not affect:

- (1) Contractual remedies, whether or not based upon misappropriation of a trade secret;
- (2) Other civil remedies that are not based upon misappropriation of a trade secret; or
- (3) Criminal remedies, whether or not based upon misappropriation of a trade secret. [L 1989, c 221, pt of §1]

**[§482B-9] Severability.** If any provision of this chapter or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [L 1989, c 221, pt of §1]

**Note**

This chapter does not apply to misappropriation occurring prior to July 1, 1989. With respect to continuing misappropriation that began prior to July 1, 1989, this chapter also does not apply to the continuing misappropriation that occurs after July 1, 1989. L 1989, c 221, §2.

**[CHAPTER 482D]  
GOLD AND SILVER STAMPING**

**SECTION**

- 482D-1 DEFINITIONS  
482D-2 IMPORTATION OR MANUFACTURE OF FALSELY MARKED GOLD OR SILVER ARTICLES PROHIBITED  
482D-3 STANDARD OF FINENESS OF GOLD ARTICLES; DEVIATION

## PART I. MEETINGS

## Attorney General Opinions

Department of agriculture advisory committee on plants and animals subject to provisions of this part; subcommittees not subject to this part. Att. Gen. Op. 90-7.

## §92-1 Declaration of policy and intent.

## Attorney General Opinions

This section and sections 92-7 and 92-9 require commission to specify subject matter of items on public meeting agenda. Att. Gen. Op. 85-2.

Interpretation of "board" as excluding county council would be inconsistent with policy and intent of sunshine law. Att. Gen. Op. 86-5.

## §92-2 Definitions.

## Attorney General Opinions

Trustees of travel agency recovery fund comprise board subject to sunshine law. Att. Gen. Op. 85-14.  
Associated Students of University of Hawaii not a "board" subject to sunshine law. Att. Gen. Op. 85-18.

"Board" includes committees or subgroups of the board. Att. Gen. Op. 85-27.  
County council is a "board". Att. Gen. Op. 86-5.

Agency's retreat would be a "meeting" subject to sunshine law. Att. Gen. Op. 86-19.

**§92-3 Open meetings.** Every meeting of all boards shall be open to the public and all persons shall be permitted to attend any meeting unless otherwise provided in the constitution or as closed pursuant to sections 92-4 and 92-5; provided that the removal of any person or persons who wilfully disrupts a meeting to prevent and compromise the conduct of the meeting shall not be prohibited. The boards shall afford all interested persons an opportunity to submit data, views, or arguments, in writing, on any agenda item. The boards shall also afford all interested persons an opportunity to present oral testimony on any agenda item. The boards may provide for reasonable administration of oral testimony by rule: [L 1975, c 166, pt of §1; am L 1985, c 278, §1]

## Revision Note

Section reproduced to correct printing error.

## Attorney General Opinions

Sunshine law applies to meeting of standing or select committee of board of regents of University of Hawaii. Att. Gen. Op. 85-27.

Opportunity to present testimony, when it must be afforded; cannot delegate committee to hear testimony. Att. Gen. Op. 86-5.

## §92-5 Exceptions.

## Attorney General Opinions

Even if there is no quorum, meeting to discuss official business may be prohibited unless sunshine law followed. Att. Gen. Op. 85-27.



§92-7 Notice.

Attorney General Opinions

This section and sections 92-1 and 92-9 require commission to specify subject matter of items on public meeting agenda. Not sufficient to list broad categories of items. Att. Gen. Op. 85-2.

§92-9 Minutes.

Attorney General Opinions

This section and sections 92-1 and 92-7 require commission to specify subject matter of items on public meeting agenda; agency responsible to make its minutes available to public. Att. Gen. Op. 85-2.

**PART II. BOARDS: QUORUM; GENERAL POWERS**

[§92-15] Boards and commissions; quorum; number of votes necessary to validate acts.

Attorney General Opinions

"Concurrence" means affirmative vote, not abstention. Att. Gen. Op. 85-11.

§92-17 Consumer complaints; procedures and remedies. \*\*\*

(f) The complainant and the licensee or person regulated may agree to resolve the complaint through final and binding arbitration pursuant to chapter 658. In the event of an agreement to arbitrate, the board may enter an order dismissing any proceeding instituted pursuant to subsection (b); provided that the order of dismissal may be conditioned upon prompt and complete compliance with the arbitrator's award. In the event that the licensee or person regulated fails to comply with the terms of the arbitrator's award, the board may reopen the proceeding and may, after a hearing in conformity with chapter 91, order one or more of the remedies set forth in subsection (b).

Notwithstanding any provision of chapter 658 to the contrary, an arbitration agreement entered into pursuant to this section shall be approved by the board, and the parties shall agree on an arbitrator within five days after execution of the agreement. If the parties fail to agree on an arbitrator within the time above prescribed, the board may appoint an arbitrator from a list of arbitrators maintained for that purpose by the department of commerce and consumer affairs.

(g) A fine levied in a final order of a board or commission pursuant to subsection (b) shall be confirmed as a judgment by a circuit court in which the respondent resides or has property or in which the act complained of had occurred, by filing the board or commission's final order any time after thirty days after the issuance of that final order. The judgment issued thereon shall have the same force and effect and be enforceable and collectible as any other judgment issued in the circuit court. Nothing herein shall impair the right of the board or commission to apply to the circuit court for injunctive relief pursuant to subsection (d). [am L 1986, c 274, §2]

Revision Note

Only the subsections amended and added are compiled in this Supplement.

[PART IV. NOTICE OF PUBLIC HEARINGS]

[\$92-41] Publication of legal notices.

Attorney General Opinions

Notices must be published in a county newspaper and a newspaper with statewide circulation. Att. Gen. Op. 89-4.

PART V. PUBLIC RECORDS

§§92-50 to 52 REPEALED. L 1988, c 262, §3.

[PART VI. GENERAL PROVISIONS]

[\$92-71] Political subdivision of the State; applicability.

Attorney General Opinions

Interpretation of "board" as excluding county council would be inconsistent with this section. Att. Gen. Op. 86-5.

CHAPTER 92E  
FAIR INFORMATION PRACTICE (CONFIDENTIALITY OF  
PERSONAL RECORD)

REPEALED. L 1988, c 262, §4.

[CHAPTER 92F]  
UNIFORM INFORMATION PRACTICES ACT (MODIFIED)

PART I. GENERAL PROVISIONS AND DEFINITIONS

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**92F-1****PUBLIC PROCEEDINGS AND RECORDS**

- 92F-26 RULES
- 92F-27 CIVIL ACTIONS AND REMEDIES
- 92F-27.5 ALTERNATIVE METHOD TO APPEAL A DENIAL OF ACCESS
- 92F-28 ACCESS TO PERSONAL RECORDS BY ORDER IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS;  
ACCESS AS AUTHORIZED OR REQUIRED BY OTHER LAW

**PART IV. OFFICE OF INFORMATION PRACTICES; DUTIES**

- 92F-41 OFFICE OF INFORMATION PRACTICES
- 92F-42 POWERS AND DUTIES OF THE OFFICE OF INFORMATION PRACTICES

**Cross References**

Access/legislative information service, see chapter 21D.

**PART I. GENERAL PROVISIONS AND DEFINITIONS**

**[§92F-1] Short title.** This chapter shall be known and may be cited as the Uniform Information Practices Act (Modified). [L. 1988, c 262, pt of §1]

**[§92F-2] Purposes; rules of construction.** In a democracy, the people are vested with the ultimate decision making power. Government agencies exist to aid the people in the formation and conduct of public policy. Opening up the government processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore the legislature declares that it is the policy of this State that the formation and conduct of public policy—the discussions, deliberations, decisions, and action of government agencies—shall be conducted as openly as possible.

The policy of conducting government business as openly as possible must be tempered by a recognition of the right of the people to privacy, as embodied in section 6 and section 7 of Article I of the Constitution of the State of Hawaii.

This chapter shall be applied and construed to promote its underlying purposes and policies, which are to:

- (1) Promote the public interest in disclosure;
- (2) Provide for accurate, relevant, timely, and complete government records;
- (3) Enhance governmental accountability through a general policy of access to government records;
- (4) Make government accountable to individuals in the collection, use, and dissemination of information relating to them; and
- (5) Balance the individual privacy interest and the public access interest, allowing access unless it would constitute a clearly unwarranted invasion of personal privacy. [L. 1988, c 262, pt of §1]

**[§92F-3] General definitions.** Unless the context otherwise requires, in this chapter:

“Agency” means any unit of government in this State, any county, or any combination of counties; department; institution; board; commission; district; council; bureau; office; governing authority; other instrumentality of state or county government; or corporation or other establishment owned, operated, or managed by or on behalf of this State or any county, but does not include the nonadministrative functions of the courts of this State.

“Government record” means information maintained by an agency in written, auditory, visual, electronic, or other physical form.

“Individual” means a natural person.

"Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

"Personal record" means any item, collection, or grouping of information about an individual that is maintained by an agency. It includes, but is not limited to, the individual's education, financial, medical, or employment history, or items that contain or make reference to the individual's name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph. [L 1988, c 262, pt of §1]

## PART II. FREEDOM OF INFORMATION

**§92F-11 Affirmative agency disclosure responsibilities.** (a) All government records are open to public inspection unless access is restricted or closed by law.

(b) Except as provided in section 92F-13, each agency upon request by any person shall make government records available for inspection and copying during regular business hours.

(c) Unless the information is readily retrievable by the agency in the form in which it is requested, an agency shall not be required to prepare a compilation or summary of its records.

(d) Each agency shall assure reasonable access to facilities for duplicating records and for making memoranda or abstracts.

(e) Each agency may adopt rules, pursuant to chapter 91, to protect its records from theft, loss, defacement, alteration, or deterioration and to prevent manifestly excessive interference with the discharge of its other lawful responsibilities and functions. [L 1988, c 262, pt of §1]

**§92F-12 Disclosure required.** (a) Any provision to the contrary notwithstanding each agency shall make available for public inspection and duplication during regular business hours:

- (1) Rules of procedure, substantive rules of general applicability, statements of general policy, and interpretations of general applicability adopted by the agency;
- (2) Final opinions, including concurring and dissenting opinions, as well as orders made in the adjudication of cases;
- (3) Government purchasing information including all bid results except to the extent prohibited by section 92F-13;
- (4) Pardons and commutations, as well as directory information concerning an individual's presence at any correctional facility;
- (5) Land ownership, transfer, and lien records, including real property tax information and leases of state land;
- (6) Results of environmental tests;
- (7) Minutes of all agency meetings required by law to be public;
- (8) Name, address, and occupation of any person borrowing funds from a state or county loan program, and the amount, purpose, and current status of the loan;
- (9) Certified payroll record on public works contracts;
- (10) Regarding contract hires and consultants employed by agencies; the contract itself, the amount of compensation, the duration of the contract, and the objectives of the contract;
- (11) Building permit information within the control of the agency;

- (12) Water service consumption data maintained by the boards of water supply;
  - (13) Rosters of persons holding licenses or permits granted by an agency which may include name, business address, type of license held, and status of the license;
  - (14) The name, compensation (but only the salary range for employees covered by chapters 76, 77, 297 or 304), job title, business address, business telephone number, job description, education and training background, previous work experience, dates of first and last employment, position number, type of appointment, service computation date, occupational group or class code, bargaining unit code, employing agency name and code, department, division, branch, office, section, unit, and island of employment, of present or former officers or employees of the agency, provided that this provision shall not require the creation of a roster of employees; except that this provision shall not apply to information regarding present or former employees involved in an undercover capacity in a law enforcement agency;
  - (15) Information collected and maintained for the purpose of making information available to the general public; and
  - (16) Information contained in or compiled from a transcript, minutes, report, or summary of a proceeding open to the public.
- (b) Any provision to the contrary notwithstanding, each agency shall also disclose:
- (1) Any government record, if the requesting person has the prior written consent of all individuals to whom the record refers;
  - (2) Government records which, pursuant to federal law or a statute of this State, are expressly authorized to be disclosed to the person requesting access;
  - (3) Government records pursuant to a showing of compelling circumstances affecting the health or safety of any individual;
  - (4) Government records requested pursuant to an order of a court;
  - (5) Government records pursuant to a subpoena from either house of the state legislature; and
  - (6) Information from the motor vehicle registration files, provided that the person requesting such files shall have a legitimate reason as determined by rules. [L 1988, c 262, pt of §1; am L 1989, c 160, §3; am L 1991, c 167, §1]

[§92F-13] **Government records; exceptions to general rule.** This chapter shall not require disclosure of:

- (1) Government records which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy;
- (2) Government records pertaining to the prosecution or defense of any judicial or quasi-judicial action to which the State or any county is or may be a party, to the extent that such records would not be discoverable;
- (3) Government records that, by their nature, must be confidential in order for the government to avoid the frustration of a legitimate government function;
- (4) Government records which, pursuant to state or federal law including an order of any state or federal court, are protected from disclosure; and
- (5) Inchoate and draft working papers of legislative committees including budget worksheets and unfiled committee reports; work product; records

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or transcripts of an investigating committee of the legislature which are closed by rules adopted pursuant to section 21-4 and the personal files of members of the legislature. [L 1988, c 262, pt of §1]

**[§92F-14] Clearly unwarranted invasion of personal privacy.** (a) Disclosure of a government record shall not constitute a clearly unwarranted invasion of personal privacy if the public interest in disclosure outweighs the privacy interests of the individual.

(b) The following are examples of information in which the individual has a significant privacy interest:

- (1) Information relating to medical, psychiatric, or psychological history, diagnosis, condition, treatment, or evaluation, other than directory information while an individual is present at such facility;
  - (2) Information identifiable as part of an investigation into a possible violation of criminal law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
  - (3) Information relating to eligibility for social services or welfare benefits or to the determination of benefit levels;
  - (4) Information in an agency's personnel file, or applications, nominations, recommendations, or proposals for public employment or appointment to a governmental position, except information relating to the status of any formal charges against the employee and disciplinary action taken or information disclosed under section 92F-12(a)(14);
  - (5) Information relating to an individual's nongovernmental employment history except as necessary to demonstrate compliance with requirements for a particular government position;
  - (6) Information describing an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or credit worthiness;
  - (7) Information compiled as part of an inquiry into an individual's fitness to be granted or to retain a license, except:
    - (A) The record of any proceeding resulting in the discipline of a licensee and the grounds for discipline;
    - (B) Information on the current place of employment and required insurance coverages of licensees; and
    - (C) The record of complaints including all dispositions; and
  - (8) Information comprising a personal recommendation or evaluation.
- [L 1988, c 262, pt of §1]

**§92F-15 Judicial enforcement.** (a) A person aggrieved by a denial of access to a government record may bring an action against the agency at any time within two years after the agency denial to compel disclosure.

(b) In an action to compel disclosure the circuit court shall hear the matter de novo. Opinions and rulings of the office of information practices shall be admissible. The circuit court may examine the government record at issue, in camera, to assist in determining whether it, or any part of it, may be withheld.

(c) The agency has the burden of proof to establish justification for non-disclosure.

(d) If the complainant prevails in an action brought under this section, the court shall assess against the agency reasonable attorney's fees and all other expenses reasonably incurred in the litigation.

(e) The circuit court in the judicial circuit in which the request for the record is made, where the requested record is maintained, or where the agency's headquarters are located shall have jurisdiction over an action brought under this section.

(f) Except as to cases the circuit court considers of greater importance, proceedings before the court, as authorized by this section, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way. [L 1988, c 262, pt of §1; am L 1989, c 192, §3]

**§92F-15.5 Alternative method to appeal a denial of access.** (a) When an agency denies a person access to a government record, the person may appeal the denial to the office of information practices in accordance with rules adopted pursuant to section 92F-42(12). A decision to appeal to the office of information practices for review of the agency denial shall not prejudice the person's right to appeal to the circuit court after a decision is made by the office of information practices.

(b) If the decision is to disclose, the office of information practices shall notify the person and the agency, and the agency shall make the record available. If the denial of access is upheld, in whole or in part, the office of information practices shall, in writing, notify the person of the decision, the reasons for the decision, and the right to bring a judicial action under section 92F-15(a). [L 1989, c 192, §1]

**[§92F-16] Immunity from liability.** Anyone participating in good faith in the disclosure or nondisclosure of a government record shall be immune from any liability, civil or criminal, that might otherwise be incurred, imposed or result from such acts or omissions. [L 1988, c 262, pt of §1]

**[§92F-17] Criminal penalties.** (a) An officer or employee of an agency who intentionally discloses or provides a copy of a government record, or any confidential information explicitly described by specific confidentiality statutes, to any person or agency with actual knowledge that disclosure is prohibited, shall be guilty of a misdemeanor, unless a greater penalty is otherwise provided for by law.

(b) A person who intentionally gains access to or obtains a copy of a government record by false pretense, bribery, or theft, with actual knowledge that access is prohibited, or who intentionally obtains any confidential information by false pretense, bribery, or theft, with actual knowledge that it is prohibited [by] a confidentiality statute, shall be guilty of a misdemeanor. [L 1988, c 262, pt of §1]

**§92F-18 Agency implementation.** (a) Each agency shall:

- (1) Issue instructions and guidelines necessary to effectuate this chapter; and
- (2) Take steps to assure that all its employees and officers responsible for the collection, maintenance, use, and dissemination of government records are informed of the requirements of this chapter.

(b) Each agency shall compile a public report describing the records it routinely uses or maintains using forms prescribed by the office of information practices. The public reports shall be filed with the office of information practices on or before September 30, 1992. The public reports shall include:

- (1) The name and location of each set of records;
- (2) The authority under which the records are maintained;
- (3) The categories of individuals for whom records are maintained;
- (4) The categories of information or data maintained in the records;
- (5) The categories of sources of information in the records;

- (6) The categories of uses and disclosures made of the records;
  - (7) The agencies and categories of persons outside of the agency which routinely use the records;
  - (8) The records routinely used by the agency which are maintained by:
    - (A) Another agency; or
    - (B) A person other than an agency;
  - (9) The policies and practices of the agency regarding storage, retrievability, access controls, retentions, and disposal of the information maintained in records;
  - (10) The title, business address, and business telephone number of the agency officer or officers responsible for the records;
  - (11) The agency procedures whereby an individual may request access to records; and
  - (12) The number of written requests for access within the preceding year, the number denied, the number of lawsuits initiated against the agency under this part, and the number of suits in which access was granted.
- (c) Each agency shall supplement or amend its public report, or file a new report, on or before July 1 of each subsequent year, to ensure that the information remains accurate and complete. Each agency shall file the supplemental, amended, or new report with the office of information practices, which shall make the reports available for public inspection. [L 1988, c 262, pt of §1; am L 1989, c 192, §4; am L 1991, c 167, §2]

## Note

Filing requirements. L 1991, c 167, §3

**[§92F-19] Limitations on disclosure of government records to other agencies.** (a) No agency may disclose or authorize disclosure of government records to any other agency, unless the disclosure is:

- (1) Compatible with the purpose for which the information was collected or obtained;
- (2) Consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided;
- (3) Reasonably appears to be proper for the performance of the requesting agency's duties and functions;
- (4) To the state archives for purposes of historical preservation, administrative maintenance, or destruction;
- (5) To an agency or instrumentality of any governmental jurisdiction within or under the control of the United States, or to a foreign government if specifically authorized by treaty or statute, for a civil or criminal law enforcement investigation;
- (6) To the legislature or any committee or subcommittee thereof;
- (7) Pursuant to an order of a court of competent jurisdiction;
- (8) To authorized officials of a department or agency of the federal government for the purpose of auditing or monitoring an agency program that received federal moneys;
- (9) To the offices of the legislative auditor, the legislative reference bureau, or the ombudsman of this State for the performance of their respective functions; or
- (10) Otherwise subject to disclosure under this chapter.



(b) An agency receiving government records pursuant to subsection (a) shall be subject to the same restrictions on disclosure of the records as the originating agency. [L 1988, c 262, pt of §1]

### PART III. DISCLOSURE OF PERSONAL RECORDS

#### Note

Part heading amended by L 1989, c 192, §5.

**[§92F-21] Individual's access to own personal record.** Each agency that maintains any accessible personal record shall make that record available to the individual to whom it pertains, in a reasonably prompt manner and in a reasonably intelligible form. Where necessary the agency shall provide a translation into common terms of any machine readable code or any code or abbreviation employed for internal agency use. [L 1988, c 262, pt of §1]

**§92F-21.5 REPEALED.** L 1990, c 250, §4.

**[§92F-22] Exemptions and limitations on individual access.** An agency is not required by this chapter to grant an individual access to personal records, or information in such records:

- (1) Maintained by an agency that performs as its or as a principal function any activity pertaining to the prevention, control, or reduction of crime, and which consist of:
  - (A) Information which fits or falls within the definition of "criminal history record information" in section 846-1;
  - (B) Information or reports prepared or compiled for the purpose of criminal intelligence or of a criminal investigation, including reports or informers, witnesses, and investigators; or
  - (C) Reports prepared or compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through confinement, correctional supervision, and release from supervision.
- (2) The disclosure of which would reveal the identity of a source who furnished information to the agency under an express or implied promise of confidentiality.
- (3) Consisting of testing or examination material or scoring keys used solely to determine individual qualifications for appointment or promotion in public employment, or used as or to administer a licensing examination or an academic examination, the disclosure of which would compromise the objectivity, fairness, or effectiveness of the testing or examination process.
- (4) Including investigative reports and materials, related to an upcoming, ongoing, or pending civil or criminal action or administrative proceeding against the individual.
- (5) Required to be withheld from the individual to whom it pertains by statute or judicial decision or authorized to be so withheld by constitutional or statutory privilege. [L 1988, c 262, pt of §1]

**[§92F-23] Access to personal record; initial procedure.** Upon the request of an individual to gain access to the individual's personal record, an agency shall permit the individual to review the record and have a copy made within ten

working days following the date of the request unless the personal record requested is exempted under section 92F-22. The ten-day period may be extended for an additional twenty working days if the agency provides to the individual, within the initial ten working days, a written explanation of unusual circumstances causing the delay. [L 1988, c 262, pt of §1]

**[§92F-24] Right to correct personal record; initial procedure.** (a) An individual has a right to have any factual error in that person's personal record corrected and any misrepresentation or misleading entry in the record amended by the agency which is responsible for its maintenance.

(b) Within twenty business days after receipt of a written request to correct or amend a personal record and evidence that the personal record contains a factual error, misrepresentation, or misleading entry, an agency shall acknowledge receipt of the request and purported evidence in writing and promptly:

- (1) Make the requested correction or amendment; or
- (2) Inform the individual in writing of its refusal to correct or amend the personal record, the reason for the refusal, and the agency procedures for review of the refusal. [L 1988, c 262, pt of §1]

**§92F-25. Correction and amendment; review procedures.** (a) Not later than thirty business days after receipt of a request for review of an agency refusal to allow correction or amendment of a personal record, the agency shall make a final determination.

(b) If the agency refuses upon final determination to allow correction or amendment of a personal record, the agency shall so state in writing and:

- (1) Permit, whenever appropriate, the individual to file in the record a concise statement setting forth the reasons for the individual's disagreement with the refusal of the agency to correct or amend it; and
- (2) Notify the individual of the applicable procedures for obtaining appropriate judicial remedy. [L 1988, c 262, pt of §1; am L 1989, c 192, §6]

**§92F-26. Rules.** The office of information practices shall adopt rules, under chapter 91, establishing procedures necessary to implement or administer this part, which the agencies shall adopt, insofar as practicable, in order to ensure uniformity among state and county agencies. [L 1988, c 262, pt of §1; am L 1989, c 192, §7]

**§92F-27 Civil actions and remedies.** (a) An individual may bring a civil action against an agency in a circuit court of the State whenever an agency fails to comply with any provision of this part, and after appropriate administrative remedies under sections 92F-23, 92F-24, and 92F-25 have been exhausted.

(b) In any action brought under this section the court may order the agency to correct or amend the complainant's personal record, to require any other agency action, or to enjoin such agency from improper actions as the court may deem necessary and appropriate to render substantial relief.

(c) In any action brought under this section in which the court determines that the agency knowingly or intentionally violated a provision of this part, the agency shall be liable to the complainant in an amount equal to the sum of:

- (1) Actual damages sustained by the complainant as a result of the failure of the agency to properly maintain the personal record, but in no case shall a complainant (individual) entitled to recovery receive less than the sum of \$1,000; and

- (2) The costs of the action together with reasonable attorney's fees as determined by the court.
- (d) The court may assess reasonable attorney's fees and other litigation costs reasonably incurred against the agency in any case in which the complainant has substantially prevailed, and against the complainant where the charges brought against the agency were frivolous.
- (e) An action may be brought in the circuit court where the complainant resides, the complainant's principal place of business is situated, or the complainant's relevant personal record is situated. No action shall be brought later than two years after notification of the agency denial, or where applicable, the date of receipt of the final determination of the office of information practices. [L 1988, c 262, pt of §1; am L 1989, c 192, §8]

**§92F-27.5 Alternative method to appeal a denial of access.** (a) When an agency denies an individual access to that individual's personal record, the individual may appeal the denial to the office of information practices in accordance with rules adopted pursuant to section 92F-42(12). A decision to appeal to the office of information practices for review of the agency denial shall not prejudice the individual's right to appeal to the circuit court after a decision is made by the office of information practices.

(b) If the decision is to disclose, the office of information practices shall notify the individual and the agency, and the agency shall make the record available. If the denial of access is upheld, in whole or in part, the office of information practices shall, in writing, notify the individual of the decision, the reasons for the decision, and the right to bring a judicial action under section 92F-27. [L 1989, c 192, §2]

**[§92F-28] Access to personal records by order in judicial or administrative proceedings; access as authorized or required by other law.** Nothing in this part shall be construed to permit or require an agency to withhold or deny access to a personal record, or any information in a personal record:

- (1) When the agency is ordered to produce, disclose, or allow access to the record or information in the record, or when discovery of such record or information is allowed by prevailing rules of discovery or by subpoena, in any judicial or administrative proceeding; or
- (2) Where any statute, administrative rules, rule of court, judicial decision, or other law authorizes or allows an individual to gain access to a personal record or to any information in a personal record or requires that the individual be given such access. [L 1988, c 262, pt of §1]

#### **PART IV. OFFICE OF INFORMATION PRACTICES; DUTIES**

**§92F-41 Office of information practices.** (a) There shall be within the department of the attorney general, for administrative purposes only, an office of information practices.

(b) The governor shall appoint, not subject to chapters 76 and 77, a director of the office of information practices who is its chief executive officer.

(c) All powers and duties of the office of information practices are vested in the director and may be delegated to any other officer or employee of the office.

(d) The director may employ such other personnel as are necessary, including but not limited to attorneys and clerical staff. None of the employees shall be subject to chapter 76 or 77. [L 1988, c 262, pt of §1; am L 1989, c 192, §9]

§92F-42 Powers and duties of the office of information practices. The director of the office of information practices:

- (1) Shall, upon request, review and rule on an agency denial of access to information or records, or an agency's granting of access; provided that any review by the office of information practices shall not be a contested case under chapter 91 and shall be optional and without prejudice to rights of judicial enforcement available under this chapter;
- (2) Upon request by an agency, shall provide and make public advisory guidelines, opinions, or other information concerning that agency's functions and responsibilities;
- (3) Upon request by any person, may provide advisory opinions or other information regarding that person's rights and the functions and responsibilities of agencies under this chapter;
- (4) May conduct inquiries regarding compliance by an agency and investigate possible violations by any agency;
- (5) May examine the records of any agency for the purpose of paragraph (4) and seek to enforce that power in the courts of this State;
- (6) May recommend disciplinary action to appropriate officers of an agency;
- (7) Shall report annually to the governor and the state legislature on the activities and findings of the office of information practices, including recommendations for legislative changes;
- (8) Shall receive complaints from and actively solicit the comments of the public regarding the implementation of this chapter;
- (9) Shall review the official acts, records, policies, and procedures of each agency;
- (10) Shall assist agencies in complying with the provisions of this chapter;
- (11) Shall inform the public of the following rights of an individual and the procedures for exercising them:
  - (A) The right of access to records pertaining to the individual;
  - (B) The right to obtain a copy of records pertaining to the individual;
  - (C) The right to know the purposes for which records pertaining to the individual are kept;
  - (D) The right to be informed of the uses and disclosures of records pertaining to the individual;
  - (E) The right to correct or amend records pertaining to the individual; and
  - (F) The individual's right to place a statement in a record pertaining to that individual;
- (12) Shall adopt rules that set forth an administrative appeals structure which provides for (A) agency procedures for processing records; (B) a direct appeal from the division maintaining the record; and (C) time limits for action by agencies;
- (13) Shall adopt rules that set forth the fees and other charges that may be imposed for searching, reviewing, or segregating disclosable records, as well as to provide for a waiver of such fees when the public interest would be served;
- (14) Shall adopt rules which set forth uniform standards for the records collection practices of agencies;
- (15) Shall adopt rules that set forth uniform standards for disclosure of records for research purposes;
- (16) Shall have standing to appear in cases where the provisions of this chapter are called into question; and

- (17) Shall adopt, amend, or repeal rules pursuant to chapter 91 necessary for the purposes of this chapter. [L 1988, c 262, pt of §1; am L 1989, c 192, §10]

### CHAPTER 93 GOVERNMENT PUBLICATIONS

#### PART I. STATE PUBLICATIONS DISTRIBUTION CENTER

##### §93-2 Definitions.

##### Attorney General Opinions

"Publication" includes agency administrative rules. Att. Gen. Op. 85-15.

### CHAPTER 94 PUBLIC ARCHIVES; DISPOSAL OF RECORDS

#### SECTION

##### 94-7 ACCESS TO RESTRICTED RECORDS IN THE STATE ARCHIVES

§94-7 Access to restricted records in the state archives. Historical records which are transferred to the state archives shall be retained for posterity and title shall vest in the state archives. All restrictions on access to government records which have been deposited in the state archives, whether confidential, classified, or private, shall be lifted and removed eighty years after the creation of the record. [L 1989, c 79, §1; am L 1991, c 145, §2]

### CHAPTER 95 DESTROYING OR DEFACING OFFICIAL NOTICES

REPEALED. L 1991, c 223, §3.

### CHAPTER 96 THE OMBUDSMAN

#### SECTION

##### 96-2 OMBUDSMAN; OFFICE ESTABLISHED, APPOINTMENT, TENURE, REMOVAL, QUALIFICATIONS, SALARY, VACANCY

##### 96-3 ASSISTANCE, STAFF, DELEGATION, FUNDING

§96-2 Ombudsman; office established, appointment, tenure, removal, qualifications, salary, vacancy. The office of ombudsman is established. The legislature, by a majority vote of each house in joint session, shall appoint an ombudsman who shall serve for a period of six years and thereafter until a successor shall have been appointed. An ombudsman may be reappointed but may not serve for more than three terms. The legislature, by two-thirds vote of the members in joint session, may remove or suspend the ombudsman from office, but only for neglect of duty, misconduct, or disability.

No person may serve as ombudsman within two years of the last day on which the person served as a member of the legislature, or while the person is a candidate for or holds any other state office, or while the person is engaged in any other occupation

CHAPTER 92  
PUBLIC AGENCY MEETINGS AND RECORDS

PART I. MEETINGS

SECTION

- 92-1 DECLARATION OF POLICY AND INTENT
- 92-2 DEFINITIONS
- 92-3 OPEN MEETINGS
- 92-4 EXECUTIVE MEETINGS
- 92-5 EXCEPTIONS
- 92-6 JUDICIAL BRANCH, QUASI-JUDICIAL BOARDS AND INVESTIGATORY FUNCTIONS; APPLICABILITY
- 92-7 NOTICE
- 92-8 EMERGENCY MEETINGS
- 92-9 MINUTES
- 92-10 LEGISLATIVE BRANCH; APPLICABILITY
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- 92-12 ENFORCEMENT
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PART II. BOARDS; QUORUM; GENERAL POWERS

- 92-15 BOARDS AND COMMISSIONS; QUORUM; NUMBER OF VOTES NECESSARY TO VALIDATE ACTS
- 92-16 POWER OF BOARDS TO ISSUE SUBPOENAS, ADMINISTER OATHS, APPOINT MASTERS, ETC.
- 92-17 CONSUMER COMPLAINTS; PROCEDURES AND REMEDIES

PART III. COPIES OF RECORDS; COSTS AND FEES

- 92-21 COPIES OF RECORDS; OTHER COSTS AND FEES
- 92-22 FEES FOR THE USE OF TAX MAP TRACINGS
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- 92-24 DIRECTORS OF FINANCE AND COMMERCE AND CONSUMER AFFAIRS; FEES
- 92-25 NO FEES FOR COPIES OF PLEADINGS, ETC.
- 92-26 FEES; EXEMPTION
- 92-27 FEES TO BE ACCOUNTED FOR
- 92-28 STATE SERVICE FEES, INCREASE OR DECREASE OF
- 92-29 REPRODUCTION OF PUBLIC RECORDS ON FILMS
- 92-30 FILM DEEMED ORIGINAL RECORD
- 92-31 DISPOSITION OF ORIGINAL

PART IV. NOTICE OF PUBLIC HEARINGS

- 92-41 PUBLICATION OF LEGAL NOTICES

PART V. PUBLIC RECORDS

- 92-50 DEFINITION
- 92-51 PUBLIC RECORDS; AVAILABLE FOR INSPECTION
- 92-52 DENIAL OF INSPECTION; APPLICATION TO CIRCUIT COURTS

PART VI. GENERAL PROVISIONS

- 92-71 POLITICAL SUBDIVISION OF THE STATE; APPLICABILITY

PART I. MEETINGS

§92-1 Declaration of policy and intent. In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and

conduct of public policy - the discussions, deliberations, decisions, and action of governmental agencies - shall be conducted as openly as possible. To implement this policy the legislature declares that:

- (1) It is the intent of this part to protect the people's right to know;
- (2) The provisions requiring open meetings shall be liberally construed; and
- (3) The provisions providing for exceptions to the open meeting requirements shall be strictly construed against closed meetings. [L 1975, c 166, pt of §1]

Hawaii Legal Reporter Citations

Openness in governmental discussions, deliberations, decisions, and actions. 79 HLR 79-0117; 79 HLR 79-0543.

**§92-2 Definitions.** As used in this part:

- (1) "Board" means any agency, board, commission, authority, or committee of the State or its political subdivisions which is created by constitution, statute, rule, or executive order, to have supervision, control, jurisdiction or advisory power over specific matters and which is required to conduct meetings and to take official actions.
- (2) "Chance meeting" means a social or informal assemblage of two or more members at which matters relating to official business are not discussed.
- (3) "Meeting" means the convening of a board for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power. [L 1975, c 166, pt of §1; am L 1976, c 212, §1]

**§92-3 Open meetings.** Every meeting of all boards shall be open to the public and all persons shall be permitted to attend any meeting unless otherwise provided in the constitution or as closed pursuant to sections 92-4 and 92-5; provided that the removal of any person or persons who wilfully disrupts a meeting to prevent and compromise the conduct of the meeting shall not be prohibited. The boards shall afford all interested persons an opportunity to submit data, views, or arguments, in writing, on any agenda item. The boards shall also afford all interested persons an opportunity to present oral testimony on any agenda item. The boards may provide for reasonable administration or oral testimony by rule. [L 1975, c 166, pt of §1; am L 1985, c 278, §1]

**§92-4 Executive meetings.** A board may hold an executive meeting closed to the public upon an affirmative vote, taken at an open meeting, of two-thirds of the members present; provided the affirmative vote constitutes a majority of the members to which the board is entitled. A meeting closed to the public shall be limited to matters exempted by section 92-5. The reason for holding such a meeting shall be publicly announced and the vote of each member on the question of holding a meeting closed to the public shall be recorded, and entered into the minutes of the meeting. [L 1975, c 166, pt of §1; am L 1985, c 278, §2]

Cross References

Authorization for 50 per cent increase or decrease of fees, see §92-28.

## PUBLIC AGENCY MEETINGS, RECORDS

92-6

Confidential, not open to public inspection:  
Automobile licensing boards records, see §437-40.  
Public assistance records, see §346-10.  
Fees for copies of public records, see §92-21.

### Attorney General Opinions

Transcript of agency hearing is a public record. Att. Gen. Op. 64-4.  
Executive meeting to develop criteria for superintendent of education position may not be closed.  
Att. Gen. Op. 75-11.

### Case Notes

Certain police records not public records. 42 H. 14, (decided prior to enactment of section).

**§92-5 Exceptions.** (a) A board may hold a meeting closed to the public pursuant to section 92-4 for one or more of the following purposes:

- (1) To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;
  - (2) To consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved; provided that if the individual concerned requests an open meeting, an open meeting shall be held;
  - (3) To deliberate concerning the authority of persons designated by the board to conduct labor negotiations or to negotiate the acquisition of public property, or during the conduct of such negotiations;
  - (4) To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities;
  - (5) To investigate proceedings regarding criminal misconduct; and
  - (6) To consider sensitive matters related to public safety or security.
- (b) In no instance shall the board make a decision or deliberate toward a decision in an executive meeting on matters not directly related to the purposes specified in subsection (a). This part shall not apply to any chance meeting at which matters relating to official business are not discussed. No chance meeting or electronic communication shall be used to circumvent the spirit or requirements of this part to make a decision or to deliberate toward a decision upon a matter over which the board has supervision, control, jurisdiction, or advisory power. [L 1975, c 166, pt of §1; am imp L 1984, c 90, §1; am L 1985, c 278, §3]

### Attorney General Opinions

Subsection (a)(1) is applicable only when a specific individual is involved. Att. Gen. Op. 75-11.

**§92-6 Judicial branch, quasi-judicial boards and investigatory functions; applicability.** (a) This part shall not apply:

- (1) To the judicial branch.
- (2) To adjudicatory functions exercised by a board and governed by sections 91-8 and 91-9, or authorized by other sections of the Hawaii Revised Statutes. In the application of this subsection, boards exercising adjudicatory functions include, but are not limited to, the following:
  - (A) Hawaii labor relations board, chapters 89 and 377;



- (B) Labor and industrial relations appeals board, chapter 371;
- (C) Hawaii paroling authority, chapter 353;
- (D) Civil service commission, chapter 26;
- (E) Board of trustees, employees' retirement system of the State of Hawaii, chapter 88;
- (F) Criminal injuries compensation commission, chapter 351; and
- (G) State ethics commission, chapter 84.

(b) Notwithstanding provisions in this section to the contrary, this part shall apply to require open deliberation of the adjudicatory functions of the land use commission. [L 1975, c 166, pt of §1; am L 1976, c 92, §8; am L 1985, c 251, §11]

#### Case Notes

County planning commission's closed deliberations permissible under this section despite open meeting mandate of section 92-3. 64 H. 431, 643 P.2d 55.  
Adjudicatory functions include adoption of conclusions of law. 4 H. App. 633, 675 P.2d 784.

**§92-7 Notice.** (a) The board shall give written public notice of any regular, special, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda which lists all of the items to be considered at the forthcoming meeting, the date, time, and place of the meeting, and in the case of an executive meeting the purpose shall be stated.

(b) The board shall file the notice in the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office for public inspection, at least six calendar days before the meeting. The notice shall also be posted at the site of the meeting whenever feasible. No board shall change the agenda, once filed, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled; provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. Items of reasonably major importance not decided at a scheduled meeting shall be considered only at a meeting continued to a reasonable day and time.

(c) The board shall maintain a list of names and addresses of persons who request notification of meetings and shall mail a copy of the notice to such persons at their last recorded address no later than the time the agenda is filed under subsection (b). [L 1975, c 166, pt of §1; am L 1976, c 212, §2; am L 1984, c 271, §1; am L 1985, c 278, §4]

**§92-8 Emergency meetings.** If a board finds that an imminent peril to the public health, safety, or welfare requires a meeting in less time than is provided for in section 92-7, the board may hold an emergency meeting provided:

- (1) The board states in writing the reasons for its findings;
- (2) Two-thirds of all members to which the board is entitled agree that the findings are correct and an emergency exists;
- (3) An emergency agenda and the findings are filed with the office of the lieutenant governor or the appropriate county clerk's office, and in the board's office; and
- (4) Persons requesting notification are contacted by mail or telephone as soon as practicable. [L 1975, c 166, pt of §1]

**§92-9 Minutes.** (a) The board shall keep written minutes of all meet-

ings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the written minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. The minutes shall include, but need not be limited to:

- (1) The date, time and place of the meeting;
- (2) The members of the board recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that any member of the board requests be included or reflected in the minutes.

(b) The minutes shall be public records and shall be available within thirty days after the meeting except where such disclosure would be inconsistent with section 92-5; provided that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting, but no longer.

(c) All or any part of a meeting of a board may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction, except when a meeting is closed pursuant to section 92-4; provided the recording does not actively interfere with the conduct of the meeting. [L 1975, c 166, pt of §1]

**§92-10 Legislative branch; applicability.** Notwithstanding any provisions contained in this chapter to the contrary, open meeting requirements, and provisions regarding enforcement, penalties and sanctions, as they are to relate to the state legislature or to any of its members shall be such as shall be from time to time prescribed by the respective rules and procedures of the senate and the house of representatives, which rules and procedures shall take precedence over this part. Similarly, provisions relating to notice, agenda and minutes of meetings, and such other requirements as may be necessary, shall also be governed by the respective rules and procedures of the senate and the house of representatives. [L 1975, c 166, pt of §1]

**§92-11 Voidability.** Any final action taken in violation of sections 92-3 and 92-7 shall be voidable upon proof of wilful violation. A suit to void any final action shall be commenced within ninety days of the action. [L 1975, c 166, pt of §1]

#### Case Notes

Violation not wilful. 4 H. App. 633, 675 P.2d 784.

**§92-12 Enforcement.** (a) The attorney general and the prosecuting attorney shall enforce this part.

(b) The circuit courts of the State shall have jurisdiction to enforce the provisions of this part by injunction or other appropriate remedy.

(c) Any person may commence a suit in the circuit court of the circuit in which a prohibited act occurs for the purpose of requiring compliance with or preventing violations of this part or to determine the applicability of this part to discussions or decisions of the public body. The court may order payment of reasonable attorney fees and costs to the prevailing party in a suit brought under this section.

(d) The proceedings for review shall not stay the enforcement of any

agency decisions; but the reviewing court may order a stay if the following criteria have been met:

- (1) There is likelihood that the party bringing the action will prevail on the merits;
- (2) Irreparable damage will result if a stay is not ordered;
- (3) No irreparable damage to the public will result from the stay order; and
- (4) Public interest will be served by the stay order. [L 1975, c 166, pt of §1; am L 1985, c 278, §5]

**§92-13 Penalties.** Any person who wilfully violates any provisions of this part shall be guilty of a misdemeanor, and upon conviction, may be summarily removed from the board unless otherwise provided by law. [L 1975, c 166, pt of §1]

## PART II. BOARDS: QUORUM; GENERAL POWERS

### Note

The sections of this part are renumbered to eliminate duplication of the section numbers in Part I, as enacted by L 1975, c 166.

**[§92-15] Boards and commissions; quorum; number of votes necessary to validate acts.** Whenever the number of members necessary to constitute a quorum to do business, or the number of members necessary to validate any act, of any board or commission of the State or of any political subdivision thereof, is not specified in the law or ordinance creating the same or in any other law or ordinance, a majority of all the members to which the board or commission is entitled shall constitute a quorum to do business, and the concurrence of a majority of all the members to which the board or commission is entitled shall be necessary to make any action of the board or commission valid; provided that due notice shall have been given to all members of the board or commission or a bona fide attempt shall have been made to give the notice to all members to whom it was reasonably practicable to give the notice. This section shall not invalidate any act of any board or commission performed prior to April 20, 1937, which, under the general law then in effect, would otherwise be valid. [L 1937, c 40, §1; RL 1945, §482; RL 1955, §7-26; HRS §92-11; ren §92-15]

### Case Notes

Where the required majority exists without the vote of the disqualified member, his participation will not invalidate the result. 63 H. 222, 624 P.2d 1353.

**[§92-16] Power of boards to issue subpoenas, administer oaths, appoint masters, etc.** (a) Any board (which term as used in this section means any board or commission of the State or of any political subdivision of the State) which is by law authorized or required to hold hearings for the purpose of receiving evidence, shall have the following powers, in addition to those provided for by any other law, in connection with the hearings:

- (1) To subpoena witnesses upon subpoena signed by the chairman, acting chairman, or any member, or executive secretary, or executive officer of or under the board who is so authorized by the board. The subpoenas shall be served in the same manner, and the witnesses

subpoenaed shall be entitled to the same witness fees, as in the case of a witness subpoenaed to testify before a circuit court. Any circuit court, upon the written application of any member of the board or of any master appointed by it as in this section provided, shall have power to enforce obedience to the subpoena by contempt proceedings.

(2) Through the chairman, acting chairman, or any member of the board, or through the executive secretary or executive officer of or under the board so authorized by the board, to administer oaths to witnesses and require the testimony of such witnesses on matters germane to the subject under inquiry at the hearing. Any party to the hearing upon request shall be allowed to be represented by counsel and be allowed reasonable rights of examination and cross-examination of witnesses. Any false swearing by a witness at the hearing upon any material issue or matter shall constitute perjury, and be punishable as such.

(3) To appoint, by written resolution adopted by vote of a majority of the board, a master or masters (who may, but need not be, a member or members of the board, or a disinterested attorney at law or other person, or a combination of any of them) to hold the hearing and take testimony upon the matters involved in the hearing and report to the board the master's or their findings and recommendations, together with a transcript of the hearing or a summary of the evidence and testimony taken thereat, and to adopt the findings and recommendations, in whole or in part, or otherwise act upon the report and transcript or summary, and, in the board's discretion, to hold further hearings and take further evidence and testimony in connection therewith, before taking final action thereon. Any master may be paid such reasonable compensation as shall be determined by the board, provided that no member of the board shall be eligible to receive any additional compensation for services as master.

(b) Subpoena fees, master's fees, and other expenses in connection with the hearings shall be payable out of any moneys appropriated or available for expenditure by the board for personal services or current expenses, or both. Any master so appointed shall have all of the powers which would be held and enjoyed by the board or the chairman or any member thereof in connection with the hearing. [L 1949, c 329; RL 1955, §7-27; HRS §92-12; am L 1973, c 31, pt of §21; ren §92-16; am imp L 1984, c 90, §1]

§92-17 Consumer complaints; procedures and remedies. (a) All boards as defined by section 92-2(1) established to license or regulate any profession, occupation, industry, or service, shall receive complaints from consumers and other persons claiming to be aggrieved by business practices related to their respective jurisdictions.

(b) Upon receipt of a written complaint or upon receipt of an investigation report generated by the board on its own motion or upon staff investigation which establishes an alleged violation of any provision of law or rule, the board or its authorized representative shall notify the licensee or person regulated of the charge against the licensee or person and conduct a hearing in conformity with chapter 91 if the matter cannot be settled informally. If the board finds that the charge constitutes a violation, the board may order one or more of the following remedies as appropriate relief:

- (1) Refunding the money paid as fees for services;
- (2) Correcting the work done in providing services;
- (3) Revocation of the licensee's permit or license;
- (4) Suspension of the licensee's permit or license;
- (5) Imposition of a fine; and
- (6) Any other reasonable means to secure relief as determined by the board.

The board may also assess the licensee, as a penalty, any cost incurred in publishing the notice of hearing when service by registered or certified mail to the address listed on the licensee's record is unsuccessful.

(c) Notwithstanding any provision to the contrary:

(1) No license or permit shall be suspended by the board for a period exceeding two years.

(2) A person whose license or permit has been revoked by the board may not reapply for a license until the expiration of at least two years from the effective date of the revocation of the license or permit.

(3) A suspended license or permit shall be reinstated at the end of the suspension; provided that the suspension does not carry forward to the next license period and the person satisfies all licensing requirements and conditions contained in the order of the suspension. If a suspension carries forward to the next license period, the board shall not renew the suspended license or permit during the usual renewal period. At the end of the suspension period, a person whose license or permit was suspended may be reinstated upon filing a reinstatement form provided by the board and payment of the renewal fees, satisfaction of any other renewal requirements and fulfillment of conditions, if any, contained in the order of suspension. If the person fails to apply within thirty days after the end of the suspension, the person's license or permit shall be forfeited.

(d) The failure or refusal of the licensee to comply with any board order, including an order of license suspension, shall also constitute grounds for further disciplinary action, including a suspension or revocation of license, imposition of which shall be subject to chapter 91 and the procedural rules of the board. The board may also apply to any circuit court for injunctive relief to compel compliance with the board's order. Where appropriate, the board shall refer for prosecution to the proper authority any practice constituting a violation which is subject to criminal penalty.

(e) If the subject matter of the complaint does not come within its jurisdiction, or if it is found that the charge does not constitute a violation, the board shall notify and inform the complainant in writing with regard to the reasons for its inability to act upon the complaint.

(f) The complainant and the licensee or person regulated may agree to resolve the complaint through final and binding arbitration pursuant to the provisions of chapter 658. In the event of an agreement to arbitrate, the board may enter an order dismissing any proceeding instituted pursuant to subsection (b); provided that the order of dismissal may be conditioned upon prompt and complete compliance with the arbitrator's award. In the event that the licensee or person regulated fails to comply with the terms of the arbitrator's award, the board may reopen the proceeding and may, after a hearing in conformity with chapter 91, order one or more of the remedies set forth in subsection (b).

Notwithstanding any provision of chapter 658 to the contrary, an arbitration agreement entered into pursuant to this section shall be approved by

the board, and the parties shall agree on an arbitrator within five days after execution of the agreement. If the parties fail to agree on an arbitrator within the time above prescribed, the board may appoint an arbitrator from a list of arbitrators maintained for that purpose by the department of commerce and consumer affairs. [L 1974, c 117, §2; HRS §92-13; ren §92-17; am L 1977, c 94, §1; am L 1978, c 158, §1; am L 1982, c 174, §1 and c 204, §8; am L 1983, c 181, §1; am L 1984, c 45, §3; am imp L 1984, c 90, §1; am L 1985, c 45, §1]

### PART III. COPIES OF RECORDS; COST AND FEES

**§92-21 Copies of records; other costs and fees.** Except as otherwise provided by law, a copy of any public document or record, including any map, plan, diagram, photograph, or photostat, which is open to the inspection of the public shall be furnished to any person applying for the same by the public officer having charge or control thereof upon the payment of the reasonable cost of reproducing such copy, which amount shall not be less than 25 cents per page, sheet, or fraction thereof. Such reproduction cost shall include, but shall not be limited to, labor cost for search and actual time for reproducing, material cost, including electricity cost, equipment cost, including rental cost, cost for certification, and other related costs. All such fees shall be paid in by the public officer receiving or collecting the same to the state director of finance or county director of finance or to the agency or department by which the officer is employed as government realizations. [L 1921, c 96, §1; RL 1925, §166; am L 1929, c 166, pt of §1; am L 1931, c 178, §1; RL 1945, pt of §458; am L 1945, c 248, §1; am L 1949, c 345, §1; am L Sp 1949, c 23, §1; RL 1955, §7-1; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §92-21; am L 1974, c 145, §2; am L 1976, c 212, §3]

#### Cross References

Court documents, see §607-5.

#### Case Notes

Records not otherwise open to the public are not opened by this section. 42 H. 14.

**§92-22 Fees for the use of tax map tracings.** The director of taxation may contract with any person or firm for the use and other disposition of tax map tracings, including copies or prints made therefrom, which have been prepared pursuant to section 246-9, under such terms and conditions as the director may deem necessary and proper. The director may charge a fee for such use and other disposition. The director may regulate the prices charged to the general public by the persons or firms using these tracings for copies or prints made therefrom.

For the purposes of this section, the director may, in the director's discretion, award the contract or contracts for such use and other disposition of these tax map tracings by calling for public bid.

All moneys received under this section shall be deposited to the general fund of the State. [L 1964, c 2, §1; Supp, §7-1.5; HRS §92-22; am L 1977, c 99, §1; am imp L 1984, c 90, §1]

**§92-23 Fees charged for real property tax searches.** (a) The director of taxation or the director's duly authorized representative may levy and collect a

of rules.  
ns  
authority upon statute's amendment. Att.

ve relief. 5 H. App. 419, 697 P.2d 43; 6

denial of claim in agency's proposed

lings of fact and conclusions of law. 6

r refusal to issue license or  
provided by law, any person  
mission listed in section 26H-4  
omit a request for a contested  
of the date of the refusal or  
14, or any other applicable  
s final order. [L 1986, c 181,

\*\*  
enforcement of the agency  
pursuant to section 92-17(g);  
ing criteria have been met;  
ll prevail on the merits of an  
o the court;  
result if a stay is not ordered;  
ult from the stay order; and  
der.

Law Journals and Reviews

Appellate Standards of Review in Hawaii. 7 UH L. Rev. 273. (See also 7 UH L. Rev. 449.)

Case Notes

Board's denial of a motion for reconsideration is a "final order". 67 H. 603, 699 P.2d 26.  
Police chief is a "person" with a standing to appeal civil service commission's ruling. 68 H. 432, 718 P.2d 1076.  
Apprenticeship committee was not "person aggrieved" by labor director's rejection of its recommendation; apprentice denied back wages and attorney's fees and costs upon reinstatement was "person aggrieved". 68 H. 605, 723 P.2d 753.  
Unincorporated association was "person aggrieved" by decision to grant special management area permit, but association did not participate in a "contested case". 69 H. 81, 734 P.2d 161.  
Judicial review of an agency determination must be confined to issues properly raised in the record of the administrative proceedings. 69 H. 135, 736 P.2d 1271.  
Standard used by appellate court when reviewing circuit court's review of agency decision. 4 H. App. 633, 675 P.2d 784, cert. denied 67 H. 3, 677 P.2d 965; 5 H. App. 59, 678 P.2d 576; 5 H. App. 325, 690 P.2d 28.  
Public employers directly affected by agency's order were "aggrieved persons" and their filing of amicus briefs with agency was sufficient "adversary participation"; standard used by appellate court when reviewing circuit court's review of agency decision. 5 H. App. 533, 704 P.2d 917.  
Does not require that all evidence before agency support its findings; sufficient if findings supported by reliable, probative, and substantial evidence. 6 H. App. 540, 735 P.2d 950.  
No "contested case" occurred even though there are situations where a public hearing may be considered a contested case because department rules established procedures for contested cases. 8 H. App. 16, 791 P.2d 1267.

§91-15 Appeals.

Case Notes

Defendants argued they lacked fair notice of illegal conduct because code book was never adopted pursuant to these sections. 824 F.2d 780.

CHAPTER 92  
PUBLIC AGENCY MEETINGS AND RECORDS

- PART I. MEETINGS
- SECTION 92-3 OPEN MEETINGS
- PART II. BOARDS: QUORUM; GENERAL POWERS
- 92-17 CONSUMER COMPLAINTS; PROCEDURES AND REMEDIES
- PART III. COPIES OF RECORDS; COSTS AND FEES
- 92-21 COPIES OF RECORDS; OTHER COSTS AND FEES
- 92-22, 23 REPEALED
- 92-24 DIRECTORS OF FINANCE AND COMMERCE AND CONSUMER AFFAIRS; FEES
- 92-26 FEES; EXEMPTION
- 92-28 STATE SERVICE FEES, INCREASE OR DECREASE OF
- 92-29 REPRODUCTION OF GOVERNMENT RECORDS ON FILM
- PART V. PUBLIC RECORDS
- 92-50 TO 52 REPEALED

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH

P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE

June 4, 1992

MAINT.LST-RG3

To whom it may concern:

The Hawaii State Emergency Response Commission (HSERC) is in the process of updating our mailing list. Your name is currently on our list of people who in the past had requested that they be notified of HSERC meetings. In the spirit of reducing waste, the HSERC would like to update the list. We encourage the names of any and all people who are interested in the operations of the HSERC and the status of the Emergency Planning and Community Right-to-Know Program (EPCRA) in Hawaii to remain on the mailing list and become an active part of the Emergency Planning and Community Right-to-Know Program in Hawaii.

To remain on the HSERC mailing list please complete and return the attached form to:

The State Department of Health  
HEER Office  
5 Waterfront Plaza, Suite 250C  
500 Ala Moana Boulevard  
Honolulu, Hawaii 96813  
Attn: Rhonda Goyke

Thank you for your interest in the EPCRA program in Hawaii.

Sincerely,

A handwritten signature in cursive script, reading "Bruce S. Anderson".

Bruce S. Anderson, Ph.D.  
Deputy Director for Environmental Health

BSA:rg

enclosure



**REQUEST TO BE PLACED ON  
THE HAWAII STATE EMERGENCY RESPONSE COMMISSION  
MAILING LIST**

**NAME:** \_\_\_\_\_

**COMPANY/  
ORGANIZATION:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PHONE:** \_\_\_\_\_

\_\_\_ **I WOULD LIKE TO REMAIN ON THE HSERC MAILING LIST AND RECEIVE  
FUTURE COPIES OF THE MINUTES OF HSERC MEETINGS**

\_\_\_ **I WOULD LIKE TO REMAIN ON THE HSERC MAILING LIST BUT DO NOT  
WISH TO RECEIVE MEETING MINUTES**

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**REQUEST TO BE PLACED ON  
THE HAWAII STATE EMERGENCY RESPONSE COMMISSION  
MAILING LIST**

**NAME:** \_\_\_\_\_

**COMPANY/  
ORGANIZATION:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PHONE:** \_\_\_\_\_

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DEPARTMENT OF HEALTH**

P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE  
MTG10.AG-RG3

**HAWAII STATE EMERGENCY RESPONSE COMMISSION (HSERC)  
Meeting #10**

Monday July 27, 1992  
9:00 a.m. - 12:00 noon

Department of Health's  
Kinau Hale Board Room, 1st Floor

1250 Punchbowl Street

**AGENDA**

- I. Introductions
  - A. Opening Remarks
  - B. Discussion/Approval of Minutes from HSERC Meeting #9
- II. Update by the Attorney Generals Office
- III. Distribution of Hawaii's Oil and HAZMAT Operations Plan
- IV. Report on Other States' Programs
- V. Available Grants
- VI. Data Management Advisory Committee - Preliminary Report
- VII. HSERC Goals & Objectives
  - A. Input on Draft Goals & Objectives
  - B. Finalize Goals & Objectives of the HSERC
- VIII. Schedule Next HSERC Meeting (#11)

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH

P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE

HSERC9.MIN-RG3

DRAFT MEETING SUMMARY  
HAWAII STATE EMERGENCY RESPONSE COMMISSION  
MEETING #9  
KINAU HALE BOARD ROOM, 1st FLOOR  
MONDAY APRIL 20, 1992, 1:00 p.m.

HSERC Commission Members and Representatives:

John C. Lewin, M.D., Chairman, HSERC, DOH  
Bruce Anderson, Ph.D., Vice Chairman, HSERC, DOH  
Roy Price for Major General Edward Richardson, DOD  
Gerald Kinro for Yukio Kitagawa, DOA  
Russell Charlton for Keith Ahue, DLIR  
Chipin Chang for William W. Paty, DLNR  
Ralph E. Moore for Rex D. Johnson, DOT  
Marilyn Shigetani for Jiggie Hommon, American Red Cross  
George Kekuna, Oahu Planning District  
Alejandro Lomosad for Clifford Ikeda, Kauai Planning District  
Sel Menor, Maui Planning District  
Harry Kim, Hawaii Planning District

Other Attendees:

Chris Takeno, OCD  
Capt. Henry Akua, HFD  
Capt. Ed Lingo, HPD  
Tom Batey, SCD  
Henry K. Kaacekami Jr., HFD  
Edward Kalinowski, KCC  
Alex Ho  
J.N. Vinton, PRI  
Judy So, State AG Office  
Mark Ingoglia, DOH/HEER  
Claire Hong, DOH/HEER  
Rhonda Goyke, DOH/HEER  
Terry Corpus, DOH/HEER

## I. OPENING REMARKS

- A. HSERC Chairman, Dr. Lewin, called the meeting to order and outlined the agenda. The two major topics on the agenda were an update of other state programs and a presentation by the Attorney General's Office on "Chapter 92" (Sunshine Law) requirements of a state commission.
- B. HSERC HANDBOOKS were distributed. The Handbooks are for reference and should be brought to all future meetings.
- C. EPA was unable to attend the workshop due to budgetary constraints, but sent reference materials to be used in the workshop. In addition, Kathleen Shimmin has evaluated the list of "Roles & Responsibilities of the HSERC" as discussed in meeting #8 and has sent a letter of endorsement for these minimum SERC requirements (see attachment 1).
- D. Discussion of minutes from Meeting #8  
  
Mr. Kim made one correction to the draft minutes. Page 5.H. should be clarified to state that the number of meetings should depend on the outcome of the orientation meeting. Mr. Price made a **motion to approve the minutes with the correction made by Mr. Kim. The motion was unanimously passed.**
- E. Input was requested regarding a refreshment fund for future meetings. Dr. Lewin stated that coffee and donuts would be supplied for the next meeting.
- F. Mr. Ingoglia informed the Committee that if an executive meeting was needed during the meeting to discuss issues with the Deputy Attorney General, the executive meeting must be announced during the open session, along with the reason for holding the executive session. The Commission determined that an executive meeting was not necessary.

## II. Roles & Responsibilities of the HSERC

- A. The Industrial Training Systems Corporation video "Understanding Title III: Emergency Planning and Community Right to Know" was shown, as an overview of Title III.
- B. Rhonda Goyke presented an overview of other state programs (see attachment 2).
- C. Discussion

Mr. Ingoglia lead a discussion session. Mark encouraged the commission to formally accept the minimum requirement of a SERC as stated in SARA Title III. Mark also queried Commission members as to what additional responsibilities should be established to facilitate HSERC operations.

Dr. Anderson pointed out that HSERC administrative rules are not required due to the way Title III is constructed. State and county agencies have enforcement power under Title III but any money generated would go to the Federal Government since the Federal law is in place.

Mr. Kekuna inquired as to who spends the money generated by other states fee programs. Rhonda Goyke answered that the SERCs of states with fee structures determine what amount of funding is needed and what fees are reasonable. State Legislatures determine what activities will be financed by the fee system.

Mr. Kim pointed out that the Kansas SERC has stated that a real commitment has been made to strong leadership and a conviction that Title III must be a way of life. Mr. Kim stated that responsibilities are overwhelming and it is difficult to know where to begin.

Claire Hong suggested that a good place to start would be the workload analysis discussed during meeting #8. This workload analysis breaks the requirements down to the minimum and provides a status report regarding how the HSERC is doing in fulfilling the requirements.

Mr. Ingoglia suggested that the best place to start is with the minimum requirements as stated in the law and to prioritize those requirements for implementation by the HSERC.

Mr. Kim suggested setting objectives. Mr. Kim stated that originally the objective of the HSERC was to complete the emergency response plan. Mr. Kim asked Commissioners what the HSERC's objectives should be now that the Plan is complete.

Dr. Anderson suggested that a commitment be made to the minimum responsibilities as Mark suggested and later augment the list. Dr. Lewin explained that what is needed is to prioritize the list, accept the responsibilities mandated by SARA Title III and try to fulfill the responsibilities as best as we can. Dr. Lewin asked commissioners for input.

Mr. Price stated that the State is actually in good shape with the existing infrastructure. What isn't needed is another agency superimposed on the existing structure causing duplication. The Fire Departments are the first responders and therefore the training effort should be focused on each county so that each county has first responders in the Fire Department who are adequately trained. However, Mr. Price further noted that data management needs to be improved. Clarification is needed regarding the county situation. As far as the goals and objectives of the HSERC and where our priorities lie, our priorities should be the 1st responders and the local fire departments.

Dr. Anderson agreed that attention does need to be given to the local level.

Mr. Kekuna stated that the County also has an existing infrastructure and the LEPC has just approved the City and County Emergency Response Plan submitted in February. However, cleanup of contamination is another problem altogether. Who should be responsible for cleanup and where are the money and resources coming from? What is needed is real investigators to investigate midnight dumpers and to educate the public. Also lacking are national standards for training. Everyone is offering different training courses and costs are often prohibitive.

Mr. Kim queried the Commissioners regarding their opinion on designating one LEPC district for the State.

Dr. Anderson stated that LEPC responsibilities needs to be tailored to each specific county according to their needs and local infrastructure.

For discussion purposes, Mr. Kim suggested changing the existing LEPC districts from four county districts to one LEPC district for the entire State. Mr. Kim further explained that all the work would remain the same except for the administrative responsibilities which would be the responsibility of the State. Mr. Kim explained that the work structure would remain as it is now except there would be no LEPC level.

Dr. Anderson asked Mr. Kim to clarify what he meant by administrative responsibilities.

Mr. Price stated that from a governmental point of view, one LEPC district is technically feasible, but from a community point of view it would not work. The law requires participation at a local level. In fact, the law states what types of people should be included. Interaction is needed with the community. Hawaii has an infrastructure, it was never intended for the LEPC to be an entity unto itself, but rather a community group.

Mr. Kim stated that in his opinion one district would be more efficient.

Mr. Moore stated that he believed that the Commission was losing sight of its objective. SARA Title III's intent is to provide emergency planning and prevention, identify facilities and enforce the law. Mr. Moore further stated that the HSERC seems to be overlooking prevention and was concentrating solely on emergency response.

Mr. Menor stated that he feels that the Fire Departments and the SERC should do all the data management.

Dr. Anderson stated that time is needed to be reserved for the Deputy Attorney General to give her presentation. He asked for additional comments from commission members.

Mr. Price made the point that the Mayors could have rejected LEPC responsibility originally when the counties were designated as the LEPC districts.

Dr. Anderson stated that he felt that the Mayors originally had no idea of what was really involved. Dr. Anderson explained that there is only one State out of 50 which has a statewide LEPC, but we can look at Oregon to see how their LEPC is operating. Dr. Anderson asked for additional comments on Mark Ingoglia's suggestion that we vote on accepting the minimum requirements as stated in the law?

Mr. Kekuna stated that emergency response and hazardous waste are not combined at the state level and should be integrated.

Dr. Anderson stated that federally hazardous waste and emergency response were separate programs. Due to the shortage of time, Judy So was asked to present information on Chapter 92.

### III. Administrative Rules and Procedures

A. Presentation by Judy So, Deputy Attorney General, regarding Chapter 92 and Chapter 92F and how these law affect State Commissions (see attachment 3).

B. Question and Answer Session with Judy So

Mr. Ingoglia stated that the HSERC has been waiting to form a technical advisory committee regarding a statewide data management system until after Judy So's presentation. Mark asked Judy how to form a subcommittee.

Ms. So answered by stating that when there is any doubt always use the Sunshine Law.

Dr. Anderson inquired as to how the HSERC should be operating.

Ms. So strongly recommended complying with the Sunshine Law.

Mr. Price asked that a review be done of how the commission members were designated.

Ms. So stated that the Memorandum dated April 23, 1987 was not an Executive Order (EO). Ms. So explained that EPCRA is very detailed as to what is required. The purpose of an EO is to implement EPCRA and establish a SERC. It is up to the HSERC to establish their own desired rules, technical responsibility is up to the Commission.

Dr. Anderson stated that we will be working with Judy to determine whether any additional steps are needed to properly establish the commission.

Dr. Lewin stated that without an EO, the Commission may lack certain authorities. However, an EO may not be needed. We will proceed as we are now. We will also ask Judy to provide information on Tort Liability.

Ms. So stated that she could give a talk on State Tort Liability or could circulate the information first than if needed give a talk.

Dr. Lewin stated that eventually the HSERC will be required to deal with difficult situations and would like Judy to attend future HSERC meetings to offer legal guidance.

Dr. Anderson stated that a request would be submitted to Warren Price formally requesting Judy's attendance at future meetings. The floor was then opened for additional questions or comments.

Mr. Moore inquired as to what private sector representation there was on the HSERC.

Dr. Anderson stated that the University of Hawaii as well as the Red Cross were Commission members.

Mr. Moore stated that training needs to be included in our goals and objectives. Who needs what level of training? Mr. Moore stated that enforcement should be discussed and set as an objective.

Dr. Anderson explained that the HSERC does not replace any enforcement action or authority of any agency already in place.

Dr. Lewin suggested that the staff meet before the next HSERC meeting to brainstorm regarding goals and objectives. The information would then be circulated to the Commission members for comment.

Dr. Anderson stated that specifying the roles of the HSERC verses the LEPC should be postponed until the HSERC establish its own goals and objectives.

Dr. Lewin stated that for the next meeting the following would be agenda items:

1. Followup from Judy So
  - a) Do we have an EO?
  - b) Is an EO required?
  - c) Circulate information on Tort Liability.
  - d) Clarify requirements of the LEPC regarding the Sunshine Law
2. Goals and Objectives of the HSERC

The timing of the next meeting was discussed and it was determined that the next meeting would be scheduled for July.

Mr. Price made the motion to adjourn the meeting at 4:45 p.m.. The motion was unanimously passed.

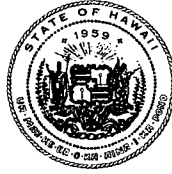
This Draft Meeting Summary is submitted to the Hawaii State Emergency Response Commission.

Respectfully submitted,

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RHONDA K. GOYKE                      date





STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE  
HSERC8.MIN-RG3

MEETING SUMMARY  
HAWAII STATE EMERGENCY RESPONSE COMMISSION  
MEETING #8  
KINAU HALE BOARD ROOM, 1st FLOOR  
FRIDAY FEBRUARY 21, 1992, 9:00 a.m.

HSERC Commission Members and Representatives:

Dr. John C. Lewin, Chairman, HSERC, DOH  
Bruce Anderson, Ph.D., Vice Chairman, HSERC, DOH  
Roy Price for Major General Edward Richardson, DOD  
Gerald Kinro for Yukio Kitagawa, DOA  
Russell Charlton, DLIR  
John P. Keppeler II for William W. Paty, DLNR  
Richard Kawakami for Marray Towill, DBED  
Jiggie Hommon, American Red Cross  
B.Z. Siegel for Jerrold M. Michael, UH School of Public Health  
George Kekuna, Oahu LEPC Chairman  
Clifford Ikeda, Kauai LEPC Co-Chair  
Sel Menor, Maui LEPC Co-Chair  
Harry Kim, Hawaii LEPC Chairman

Other Attendees:

Erwin Kawata, BWS  
Chris Takeno, OCD  
Leighton Ah Cook, SCD  
Eugene Lee, DPW  
LT Eric Mosher, USCG  
LTJ6 Pete Fontaine, USCG  
ENS Dave Pugh, USCG  
Thomas Vendetta, C&C  
Cpt. Carter Davis, HFD  
Cpt. Joseph Blackburn, MFD.  
LCDR Gregory Jones, MSO Honolulu  
Walter Nishimura, DOH/EMS  
Richard Rosen, PRI-ETI  
Dean Yoshihu, HDOA  
Chief Alejandro Lomasad, KFD  
Harding Fragas Jr.  
Mark Ingoglia, DOH/HEER  
Claire Hong, DOH/HEER  
Rhonda Goyke, DOH/HEER

requests for clarification of the roles and responsibilities of the HSERC and LEPCs. Based on this analysis, it appears that Oahu and Kauai are in good shape and are close to full compliance. Maui is making real progress with Captain Blackburn on board. Hawaii, we are sure will also catch up. It is clear that the LEPCs have already met many of the Title III requirements. Nonetheless, there is need for improvement in specific areas. However, the item requiring the biggest demand for time (i.e. hazard analysis) can be externalized.

There are both short-term and long-term options that should be considered. In the short-term, the LEPCs should be able to comply with Title III requirements with limited support from the HSERC, with the exception of the hazard analyses. Facilities can be required to do the hazard analysis for themselves. This would limit the LEPC responsibility to quality assurance. Facilities are often required to do their own hazard analyses under other environmental statutes. The HSERC could provide technical support for the externalize hazard analysis, this would also help to standardize the format. The facilities would also acquire a better understanding of Title III and the hazards present at their facilities.

Long-term options to support the LEPCs include: Title III laws establishing facility fees, which would go to the counties and acquiring planning and training money which may be available from DOT, but the details are unclear at this time.

### III. QUESTIONS & ANSWERS REGARDING STATUS REPORT

- A. Harry Kim commented that the responsibilities of the HSERC needs to be defined and that a orientation meeting is necessary. Dr. Lewin suggested that a training session be held in place of the next HSERC meeting to officially define the Commissions roles & responsibilities.
- B. Roy Price brought up the issue of the number of facilities listed per county in the analyses, why does Kauai with the smallest population have the most facilities? Clifford Ikeda explained that Kauai has been very active in identifying facilities. Dr. Lewin commented that these numbers are an indication that all sources have not been identified. Hawaii probably has more facilities than Maui, and Maui probably has more facilities than Kauai, but those facilities have not been identified to date.
- C. Roy Price expressed concern with going with CAMEO exclusively as a statewide network. Integrating CAMEO into his all-IBM system would require resources, e.g. training and manpower. Dr. Lewin suggested moving towards a common system approach which would work for CD and for the first responders. After further discussion, Dr. Anderson recommended that a subcommittee be formed to discuss and resolve the issue of a Title III Data Management System.
- D. Roy Price clarified that State Civil Defense has taken on the responsibility of exercises for the State and the HSERC and a four year plan is currently in place.
- E. George Kekuna stated that he has held off on ordering computers for Title III until these issues are resolved. Equipment and manpower are needed resources.
- F. Gregory Jones, USCG, suggested going through the RRT to obtain assistance from

NOAA in Data System decisions.

- G. George Kekuna commented quarterly HSERC meetings are needed in this developmental stage of the program until problems are resolved. The LEPC chairs and co-chairs also agreed that formal meetings were needed, the rules on running a commission should be followed.
- H. Harry Kim stated that until the HSERC and LEPC plans are complete and approved, Volume III stands alone. George Kekuna commented that the HSERC and LEPC plans are annexes to Volume III and encouraged everyone in the room to re-acquaint themselves with Volume III.

#### IV. Recommendations

- A. Dr. Lewin noted that a quorum was present and opened the floor for recommendations.
- B. Roy Price made a motion to approve the meeting minutes for #7, as written. Harry Kim had one correction to make to the minutes. Roy Price then made a **motion to approve the minutes with corrections. The motion was passed.**
- C. Dr. Anderson made a **motion to form a subcommittee to make recommendations on the data management needs to meet Title III requirements.** Issues to be resolved include:
  - 1. Converting to one system,
  - 2. Develop bridges to make IBM and Apple systems compatible, and
  - 3. Establish subcommittee to include: CD, DOH, and through RRT bring in an expert from NOAA.**The motion was passed.**
- D. Dr. Anderson recommended that a re-orientation meeting on Title III be scheduled. After some discussion it was decided that the re-orientation meeting should be kept small, but at a minimum all the HSERC members should attend. Roy Price stated that administrative rules also need to be established. Harry Kim stated that he would like to see how a model HSERC operates and that a presentation by EPA would be helpful. Carter Davis commented that a model may have already been distributed and a copy of the model should be in the historical files. **The motion was then made to conduct a re-orientation meeting consisting of three segments:**
  - 1. First, a re-orientation on SARA Title III. The workshop would be attended by HSERC members and staffed by EPA, AG and DOH. The objective of the workshop would be to discuss the mandatory and optional requirements of the HSERC and the LEPCs.
  - 2. The re-orientation segment would be followed by an administrative procedures establishment segment. This segment would be attended by HSERC members and staffed by EPA, AG and DOH.
  - 3. The third and final segment of the meeting would be to define the goals and objectives of the HSERC. The segment would be attended by the HSERC and staffed by AG and DOH. **The motion was passed.**

- E. Dr. Anderson recommended that the workshop meeting be held in place of the next HSERC meeting and that due to the pressures imposed by this year's legislative session three months from now would be the best. Harry Kim commented that three months was too long to wait, three weeks would be better. After some discussion the motion was made to schedule the workshop as soon as EPA staff could schedule time to be here, but no later than mid April. The motion was passed.
- F. Dr. Lewin recommended setting a minimum number of HSERC meetings to be held each year, suggesting two with the flexibility to have more meetings as needed. After some discussed the motion was made to have a minimum of four meetings a year. The motion was passed.
- G. Dr. Anderson recommended establishing a realistic deadline for LEPC plan review. Roy Price commented that this decision should actually wait until after the administrative rules are established at the workshop. No motion was made.
- H. Roy Price recommended establishing the frequency of LEPC meetings. He believes the LEPCs should meet at the same frequency as the HSERC. Preferably the LEPCs should meet prior to the HSERC meeting to establish recommendations for the HSERC meetings. George Kekuna commented that Oahu is planning a LEPC meeting for April and that he would agree that the LEPCs should meet four times a year. Dr. Lewin stressed that flexibility is important, and recommended establishing twice a year as a guide and then meet more frequently as needed. Harry Kim stated that the re-orientation workshop should come first, before committing to number of meetings per year. Harry stated that there was a need to express problems to the HSERC before committing. George Kekuna made the motion to defer setting number of HSERC and LEPC meetings to be held each year until after the administrative rules making session. The motion was passed.
- I. Roy Price made the recommendation that he be authorized to sign the FEMA Training System Form for the HSERC Chairman. After some discussion, the motion was made that the Director or Vice-Director of Civil Defense be authorized to act for the HSERC Chairman in the signing of the FEMA form for funding for Hazmat training. The motion was passed.
- J. Roy Price made the motion to adjourn the meeting at 11:35 a.m. The motion was passed.

This Meeting Summary is submitted to the Hawaii State Emergency Response Commission.

Respectfully submitted,

*Rhonda K. Gojke 5/22/92*  
RHONDA K. GOYKE                      date

OTHER STATES UPDATE  
EMERGENCY PLANNING & COMMUNITY RIGHT-TO-KNOW PROGRAMS

July 6, 1992

OREGON

Program description: See Attachment 1 "State of Oregon" for details. The State of Oregon has designated the entire State as one LEPC. Local planning groups were formed in all 36 counties, as well as most cities and major towns. SERC and LEPC are two separate groups. Local planning groups may form a LEPC upon approval by the SERC.

EPA Headquarters Official Opinion: One statewide LEPC can not fulfill the intent of the law. Large numbers of LEPCs are needed for adequate local input for an emergency planning and prevention program. Headquarters refused to print Attachment 1 in any of the EPA publications providing updates and assistance to SERCs and LEPCs.

EPA Region X Opinion: One statewide LEPC works very well for Oregon. In fact, the LEPC is operating better than any other state in Region X. Oregon has legislation to support the program, therefore there is sufficient funding and staffing for the program. Grant money is used to develop CAER groups in seven cities to get local input.

Oregon LEPC Coordinator Opinion: One LEPC works excellently. Appointed to LEPC by the SERC to fulfill requirements as stated in EPCRA. Governor chairs the SERC, two distinct groups. SERC meets quarterly, executive committee to the SERC meets monthly, LEPC meets every two months. CAER groups around the state are encouraged to take the lead on local needs.

Future Projections: Due to the availability of funds from the HMTSA Grant, Local Planning Groups may split out as official LEPCs. If they are established as LEPCs they are eligible for 75% of the funds from the Grant.

DELAWARE

Originally one statewide LEPC, did not work. One LEPC was not community based planning, met the letter of the law but not the intent. Each county is now a LEPC. The State is committed to funding, a fee system is now in place but took three years to pass. General funds were used during the three years required to establish a fee system.

## SOUTH DAKOTA

Originally six planning districts, did not work. Counties did not work well together. The decision was made to go with 66 County divisions, where the infrastructure was already in place. Multiple division are necessary to achieve local input. The FEMA Emergency Plan is the basis Plan for the State and EPCRA is an appendix. EPCRA requirements are fulfilled by two separate divisions: 1)Reporting requirements and facilities, and 2)Emergency management which handles emergency plans and LEPCs.

## KANSAS

105 LEPCs by County divisions, 75-80% working well. Emphasis has been placed on requesting assistance and benefiting from existing agencies, organizations and financial assistance from available grants. For example, Kansas has received equipment and computers for the LEPCs through EPA Section 313 enforcement using beneficial offset penalties. There are also grants available through the International City Managers Association (ICMA) which assists SERCs and LEPCs through a "Peer Exchange Program", ICMA pays for the costs associated with the peer exchange.

Compliance enforcement has also been top priority with Kansas. They have used an EPA grant to set up an Expert Computer System (Artificial Intelligence). Simple stated, this is a two part program: 1) learning and 2) the application of rules. The system looks at available data such as Dunn and Bradstreet, SIC codes, IRS information, taxes, ground water injection, land ownership, electricity usage, etc. to determine the probability that a facility should report under EPCRA.

SERC BYLAWS

REC'D MAY 18 1992

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 3
To Rhora	From	Walt. Jagers
Co. Emerg Mgt.	Co.	USEPA Seattle
Dept. State of Hawaii	Phone #	(206) 553-9255
Fax # 808-586-4370	Fax #	(206) 553-0175

LEPC Organization

Planning

Information Management

Funding

DRAFT: November 14, 1990

## STATE OF OREGON

### ~~LOCAL EMERGENCY PLANNING COMMITTEE (LEPC):~~

26 members, including a representative from every State agency, and representatives of local government, public interest groups, industry, and citizens. All members received a letter from the Governor requesting their participation.

Population: 2,650,000

Facilities: 80,000, ranging from large manufacturers to gas stations

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Oregon has taken a unique approach in implementing Title III. In order to meet the deadlines and maximize use of its resources, the entire State was designated as one LEPC. In establishing this Statewide LEPC, Oregon expanded its existing Interagency Hazard Communication Council to serve as the State Emergency Response Commission. A single LEPC was formed, using community and private-sector groups and local government officials to fulfill the spirit of broad-based participation.

In fulfilling its responsibilities for Oregon, the State LEPC combined the task of collecting and managing Title III information with the Oregon State Fire Marshal's Community Right-to-Know program. This information is maintained on a data base which is accessible to local emergency planners and responders via modem 24 hours a day. Data is available to the general public in hard copy form. While the State LEPC adapted an existing State emergency response plan to meet the Title III planning deadline, the LEPC recognized the need for comprehensive planning at the local level that incorporates Title III information on chemical hazards in each community.

Although Oregon has only one official LEPC for the entire State, more than 250 local groups were formed under State law to develop comprehensive emergency plans that address community-specific hazards. The State LEPC asked these planning groups to have as much broad-based participation as possible, in keeping with Federal law. Oregon undertook this approach in establishing its Title III structure in order to:

- Meet the short deadlines established in the Statute;
- Allow the State more control to ensure that the planning was accomplished in a thorough and timely manner; and
- Establish and manage statewide information systems, which would reduce paperwork burdens for the local planning groups.

At present, there are planning groups and planning processes developed in virtually all communities within Oregon. Upon request, the State LEPC would allow these planning groups to become formal LEPCs themselves. Several planning groups have indicated interest in making such a request.

#### LEPC ACTIVITIES

**PLANNING.** Local planning groups were formed in all 36 counties in Oregon, as well as most cities and major towns throughout the State. The State LEPC and these groups were established two months prior to the passage of Title III in order to develop a State-mandated hazardous materials plan. With the passage of Title III, the scope of their State-mandated task was expanded to include Title III planning requirements.

At present, 98 percent of the planning groups, representing a majority of the State's population, have completed their plans. Each of the plans is required to be consistent with the State plan and, more importantly, to integrate state support of local jurisdictions. Each local plan will eventually be an annex to the State LEPC plan.

In addition, the State LEPC requires all facilities that report under Section 302 to develop, or prove that they have developed, facility emergency response plans. Oregon estimates that approximately 90 percent of facilities covered by Section 302 have reported.



**INFORMATION MANAGEMENT.** The Oregon State Fire Marshal has incorporated information provided by facilities under Title III Sections 302, 303, 304, 311, and 312 into a computer data base. The data base is maintained on a 3-COM local area network using SUPERBASE software. The data management software is designed to establish information fields for the collection and maintenance of data, as well as the generation of Title III information in many formats. A hard copy of the Title III information is printed from the data base and sent annually to each fire district, lead county health official, and local planning group. After receiving this hard copy summary, many recipients have made special requests to the State Fire Marshal for more specific information from the data base—for example, the locations by county of all facilities that handle a specific hazardous chemical.

Local planning groups can access this data base, known as HAZCOM, by modem 24 hours a day. A separate emergency phone number has been established to provide emergency responders with access to the computerized information in an emergency situation. State Fire Marshal staff are also available 24 hours a day to help local planning groups and emergency responders access the data base or interpret the data.

This data base has proven to be crucial in emergency situations. For example, a local fire department responded to a fire in a repair shop at a State-owned facility. By using the data base, the fire department identified the chemicals present and determined it was safer to let the fire burn out than to try to extinguish it. The fire department believes they saved thousands of dollars in response costs by letting the fire burn rather than dousing it with water, which would have created a larger, more toxic plume.

Modem access to the data base is free, but prior State Fire Marshal approval is required. State Fire Marshal staff can also research information and provide hard copy summaries. Data in the data base is also available to the general public.

**FUNDING.** Title III Sections 301-303 implementation are not funded. The Title III Section 302 program, however, is self-supporting. Employers that fall within the reporting guidelines of Section 302 must pay a fee based upon the types and quantities of hazardous materials that they use, manufacture or store. This fee is a sliding scale, adjusted for both the quantity and the level of hazard that the material represents.

The LEPC function is not funded, but is staffed and supported by the Office of State Fire Marshal. The Agency also provides staff support and coordination for the State Emergency Response Commission.

ADMINSFM/C

REGON

SECTION 6  
KANSAS  
SERC BYLAWS

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## BY-LAWS<sup>1</sup>

(Adopted on March 17, 1992)

### PREAMBLE

These by-laws are adopted by the State Emergency Response Commission of the state of Kansas. This Commission is empowered to implement the provisions of Title III of PL-99-499, the Emergency Planning and Community Right-to-Know Act of 1986 and K.S.A. 65-5701 et. seq and amendments thereto, The Kansas Emergency Planning and Community Right-to-Know Act.

### ARTICLE I

#### NAME

Section 1. The name of this commission shall be the State Emergency Response Commission of the State of Kansas. Here inafter referred to as SERC or the Commission.

### ARTICLE II

#### PURPOSE

Section 1. The purpose of the SERC shall be to carry out the provisions of K.S.A. 65-5701 et. seq. and amendments thereto, and PL 99-499, Title III. These include providing assistance in the coordination of state agencies activities relating to: (1) chemical emergency training, preparedness, and response; (2) chemical release reporting and prevention, transportation, manufacture, storage, handling, and use.

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<sup>1</sup> March 18: Note: words in italics were not adopted on March 17, 1992. However Secretary Young has agreed to wording as originally proposed. This material will be offered for adoption at May meeting.

Section 2. Duties: the Commission shall perform such duties as specified in the federal act to be performed by such Commissions and, in addition thereto such duties as specified in the laws of this state or as are deemed necessary and appropriate by the Commission to achieving its purposes in accordance with the requirements of the federal act. The Commission shall establish local planning districts, subject to approval by the Secretary of Health and Environment and the Adjutant General, and shall appoint a local planning committee for each such district. Local planning committees shall perform such duties as specified in the federal act to be performed by such committees, and in addition thereto, such duties as are assigned by the commission or by any member of the commission acting on behalf of or at the direction of the commission, or are as deemed necessary and appropriate by each such committee to achieve its purposes. The duties of the Commission and the local emergency planning committees shall be performed in accordance with rules and regulations adopted pursuant to K.S.A. 65-5701 et.seq. and amendments thereto.

### ARTICLE III.

#### MEMBERSHIP

Section 1. The membership of the commission shall consist of those state officers and individuals designated under K.S.A. 65-5703 or their appointed designees.

Section 2. Members of the Commission appointed by the governor shall serve for terms of two years. Any vacancy in the office of an appointed member of the Commission shall be filled for the unexpired term by appointment of the governor.

Section 3. State officers shall provide written notice to the chairperson of the

Commission of their appointed designee. Designees may be appointed for any period at the discretion of the state officer making the appointment. Such appointments shall be noticed to the chairperson prior to their effective date and further the chairperson shall be noticed when the term of such appointment shall expire or when a new appointment is made.

Section 4. Designees: designees shall serve at the pleasure of the state officer making their appointment and have the authority to act on behalf of the state officer in all matters before the Commission in a manner consistent with and equivalent to that authority residing in the state officer which the designee represents. The term of the appointment of the designee shall expire with that of the individual state officer appointing said designee unless otherwise reappointed by a successor to the state officer.

#### ARTICLE IV.

##### VOTING

Section 1. Quorum: a quorum shall consist of the majority of the members or their voting designees. A quorum is necessary for the conduct of any official business or official votes of the Commission.

Section 2. One vote is allocated to each state officer or their designee, and each appointed member. A majority of those voting yea or nea shall determine all questions presented at regular or special meetings of the Commission.

Section 3. The staff director will publish the count of all votes, including abstinence, in

the minutes of all meetings.

## ARTICLE V.

### MEMBERSHIP RIGHTS AND PRIVILEGES

Section 1. Members or their designees shall be entitled to full rights and privileges of the Commission including the right to hold office, to be a member or chair of committees, and to vote on issues to come before the Commission. The Chairperson is the sole individual authorized to represent the Commission unless otherwise provided for in these by-laws. In addition, the Chairperson on behalf of the Commission may call upon the executive director to perform special studies and surveys or provide other support services within reason and consistent with the goals and objectives of the Commission, and resources available to the Commission staff.

Section 2. Resignation: any designee for a state officer may resign by filing a written resignation with the executive director or chairperson and their appointing state officer.

Section 3. Annual meeting: the first meeting in April of the Commission shall be considered the annual meeting for purposes of election of officers, appointment of committee chairpersons, and date of commission for filling vacancies of appointed members.

## ARTICLE VI.

### OFFICERS, AND STAFF DIRECTOR

Section 1. Administration of the SERC is vested in a Chairperson, Vice-Chairperson and

Staff Director. The Staff Director is the chief staff person provided by the Kansas Department of Health and Environment as staff support to the Commission. *The Staff Director is authorized to serve on all committees and sub-committees of the Commission at the direction of the Chairperson.* The Staff Director is authorized to vote on all committees and sub-committees to which he/she serves to the same extent any non-commission member is so enabled. The Chairperson shall be elected annually by members of the Commission. A Vice-chairperson shall be designated by the Chairperson on an annual basis to serve in the absence of the Chairperson. The Chairperson may not be the department head or designee from the Kansas Department of Health and Environment or the Adjutant General's Department.

Section 2. The Chairperson and the Staff Director shall carry out the routine work of the Commission and may further act on the behalf of the Commission between meetings.

## ARTICLE VII.

### DUTIES OF THE CHAIRPERSON

Section 1. The Chairperson shall establish standing and temporary sub-committees for those purposes necessary to carry out the work of the Commission. The Chairperson shall appoint committee and sub-committee chairpersons and membership.

Section 2. The Chairperson shall be responsible for coordinating Commission administrative activities with the staff director. These activities shall include staffing various committees and sub-committees, providing research, preparing and signing correspondence, preparing reports, representing the Commission before public bodies, at public meetings,

and to carry out other such business as directed by the Chairperson. The Chairperson may delegate the authority to carry out these activities on behalf of the SERC to the Staff Director or any member of the commission, acting instead of the Chairperson.

Section 3. The Administrative Committee shall provide recommendations on behalf of the Commission to the Secretary of Health and Environment regarding budgetary needs of the Commission. The Administrative Committee, with the advice of the Staff Director, shall be authorized to direct expenditures on behalf of the Commission, its members, or for any other purpose consistent with those limitations provided on the Commission by the legislature through legislative appropriations for the Commission contained within the Kansas Department of Health and Environment budget.

Section 4. The Administrative Committee, on behalf of the Commission and after consultation with the Adjutant General's Department and the Kansas Department of Health and Environment is authorized to apply for and receive monies, grants, contracts, or awards from any source where such activities are contingent upon approval or concurrence of the State Emergency Response Commission. The Administrative Committee may, as necessary, delegate this authority to a state agency acting on behalf of SERC.

### ARTICLE VIII.

#### ELECTIONS, TERM OF OFFICE, AND SUCCESSION TO OFFICE

Section 1. The Chairperson shall be elected annually by members of the Commission. The Chairperson is the only officer elected by the Commission. A Vice-Chairperson shall be designated by the Chairperson to serve in the absence of the Chairperson.



Section 2. Vacancy in office:

A. in the event of a vacancy in the office of the Chairperson the Vice-Chairperson shall immediately succeed into the position of Chairperson for the remainder of the term. He/She may in turn appoint an interim Vice-Chairperson who shall serve also until the remainder of the term.

B. In the event of a vacancy in the office of the Chairperson and Vice-chairperson the Commission at its next scheduled meeting shall elect an interim Chairperson from its members to serve out the remainder of the term. The Chairperson so elected may in turn appoint an interim Vice-chairperson to serve out the remainder of the term.

ARTICLE IX.

COMMITTEES

Section 1. The Chairperson may establish such standing and special committees as are needed to promote the work of the Commission and the Chairperson may appoint committee and sub-committee chairpersons and committee or sub-committee members. The Chairperson may further, as discretion dictates, appoint non-voting members to such committees of individuals with skills, experience, or interests that the Chairperson considers would contribute to the work of said committees or sub-committees. These members may be from the public, private sector, or academia.

Section 2. The following shall be standing committees for the commission. A. Administrative Committee which would include by-laws, funding, and strategic planning (legislative and regulation). B. Information Management Committee which would include CAMEO, Spill Reporting and Compliance and Enforcement. C. Emergency Planning

Committee, which would include Local Emergency Planning Committees; training and regionalization.

Section 3. Functions of committees:

A. the Administrative Committee shall consist of the chairperson and department head or designee from the Kansas Department of Health and Environment and the Adjutant General's Department. The staff director and vice-chairperson are non voting members of the Administrative Committee. The Administrative Committee shall provide counsel to the Chairperson in the performance of the routine functions of management of the affairs of the Commission between Commission meetings including proposal and adoption of administrative policies and procedures, consistent with these by-laws. Major actions taken by the Administrative Committee which reflect upon policy not previously established by the Commission shall be presented to the full Commission for ratification at the next subsequent full Commission meeting. In addition, the Administrative Committee shall recommend the adoption of by-laws to clarify operating procedures; evaluate and recommend alternative funding mechanisms to pay for activities to be accomplished under the Kansas Emergency Planning and Community Right-to-Know Act; and shall have a broad mandate to investigate, review and advise the Commission on matters effected by or effecting legislation, rules and regulations, policy, or other actions at the federal, state, or local level impacting upon or impacted by the activities of the Commission.

B. The Information Management Committee shall review and advise the Commission regarding technologies and options for information management including the state wide Data Management system and CAMEO applications; and coordinate state agency

programs for receipt and handling of reports of spills or other incidents which may result in episodic releases of hazardous material. Further, the committee shall investigate and coordinate agency compliance and enforcement activities associated with emergency response planning, hazardous chemical releases, and other activities associated with hazardous chemicals in the community.

C. The Emergency Planning Committee shall recommend adoption of standards, procedures, and methods of accreditation of training courses and instructors; and shall assist the Division of Emergency Preparedness in implementation of a registration program for accredited training courses, instructors and students successfully completing such courses. Further the committee shall investigate and recommend to the Commission adoption of policies or guidelines regarding regionalization of state and local response and planning activities associated with hazardous chemical release prevention and discharge clean-ups. The committee shall consult with LEPCs and make recommendations to the Commission regarding LEPC activities, appointments of members, designation of Local Emergency Planning Districts, and/or any other state actions effecting LEPCs.

#### ARTICLE X.

##### FISCAL YEAR

Section 1. The fiscal year of the Commission shall coincide with that of the State and ending on June 30 of each year.

#### ARTICLE XI.

##### AMENDMENTS

Section 1. A. These by-laws may be amended by majority vote of the quorum present

at an annual meeting or special meeting of the State Emergency Response Commission, providing notice of proposed amendments has been sent to all members not less than thirty (30) days before the annual meeting or special meeting, and providing a copy of the proposed amendments accompanies the notice.

B. For purpose of taking action on amendments to by-laws, a quorum shall mean two-thirds of the current membership of the SERC.

C. All amendments to such proposed amendments must be in writing and may be adopted immediately by a two-thirds vote of those present. If adopted the amended amendment shall then be voted upon. Amendments may be proposed to the Commission by any member and at any time prior to an annual or special meeting consistent with subsection "A" of this article.

## ARTICLE XII.

### MEETINGS

Section 1. The Commission shall have an annual meeting as specified by these by-laws.

Section 2. Meetings of the Commission shall be held on the second Thursday of the month unless otherwise designated by the Chairperson or the Commission.

Section 3. At any meeting of the Commission, issues may be discussed briefly before formal motion is made. Whenever a question of procedure is raised, Roberts Rules of Orders newly revised shall prevail. Federal and state statute, rules and regulations shall have priority where conflicts with Roberts Rules may occur.

Section 4. Records of all meetings, votes, discussions and other transactions at annual meetings, special meetings and or committees shall be maintained by the Staff Director. Such reports shall be available at the next regular meeting of the Commission. Summary reports will be mailed or presented at each meeting to Commission members by the Staff Director or by appropriate committee or sub-committee chairpersons.

Section 5. Prior notice of Commission meetings shall be published in the State Register. All meetings of the Commission are open to the public consistent with the Kansas Open Meetings Act and all records of the Commission unless otherwise designated and consistent with provisions of the Kansas Open Records Act, shall be open to the public.

## SECTION 7

### INTERAGENCY AGREEMENTS

#### I. MEMORANDUM OF UNDERSTANDING BETWEEN KDHE AND THE ADJUTANT GENERAL'S DEPARTMENT

In order to coordinate activities and divide responsibilities in implementing SARA Title III, the Kansas Department of Health and Environment (KDHE) and the Kansas Adjutant General's Department entered into a Memorandum of Understanding (MOU) on September 8, 1987. The basic division of responsibilities emanates from the Kansas statute (see appendix D). It stipulates that the Adjutant General shall be responsible for emergency planning and the requisite rulemaking, while KDHE shall support the SERC, manage EPCRA information, and likewise adopt necessary rules. The MOU provides a more detailed delineation of duties and responsibilities between KDHE and the Adjutant General's Department. The MOU is reproduced in appendix K.

## II. PROGRAM COMPLIANCE AND ENFORCEMENT POLICY DOCUMENT

This document outlines the general strategies, policies and procedures for obtaining compliance with Title III in Kansas. It is based in part on an agreement between KDHE and the Region VII Environmental Protection Agency. While the Policy Document is not binding, it does describe normative procedures to be followed by the involved agencies. The Policy Document:

- \*describes factors to consider in determining the appropriate approach to take
- \*outlines the compliance strategy
- \*describes the tools available to the enforcing agencies
- \*includes a formula for determining the settlement value of claims against facilities subject to civil actions

The Policy Document is reproduced in appendix K.

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE

June 4, 1992

MTG10.NOT-RG3

MEMORANDUM

To: The Hawaii State Emergency Response Commission  
(HSERC) Members

From: John C. Lewin, M.D., Chairman,  
The Hawaii State Emergency Response Commission

Subject: NOTICE FOR HSERC MEETING #10

A handwritten signature in black ink, appearing to be "John C. Lewin", written over a horizontal line.

HSERC MEETING NOTICE

This is to invite you to attend the next meeting of the Hawaii State Emergency Response Commission (HSERC) to be held Monday July 27, 1992, 9:00 a.m. to 12:00 noon. The meeting will be held at the Department of Health's Kinau Hale Board Room, 1st Floor, 1250 Punchbowl Street.

Topics to be discussed include HSERC Goals and Objectives and an update by the Attorney Generals Office on legal issues. Please provide comments on the Draft Goals & Objectives to Rhonda Goyke by June 12, 1992. Comments regarding the Goals & Objectives will be compiled for discussion at the meeting. Also, please bring your "Hawaii State Emergency Response Commission" 3-ring binders with you to the meeting. We will be referring to information included in the binders at the meeting.

Please find enclosed a copy of a Draft HSERC Goals & Objectives, meeting agenda, draft minutes from HSERC meeting #9, and the final Meeting Summary for HSERC meeting #8. Parking permits have been requested for the commission members, and you will be kept informed regarding the status of the permits. If you have any questions, please contact Rhonda Goyke at 586-4277.

Enclosures

1. Agenda
2. HSERC Draft Meeting Summary April 20, 1992
3. HSERC Final Meeting Summary February 21, 1991
4. Draft HSERC Goals & Objectives

JCL:RG



JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE  
MTG10.AG-RG3

**HAWAII STATE EMERGENCY RESPONSE COMMISSION (HSERC)  
Meeting #10**

Monday July 27, 1992  
9:00 a.m. - 12:00 noon

Department of Health's  
Kinau Hale Board Room, 1st Floor

1250 Punchbowl Street

**AGENDA**

- I. Introductions
  - A. Opening Remarks
  - B. Discussion/Approval of Minutes from HSERC Meeting #9
- II. Update by the Attorney Generals Office
- III. Distribution of Hawaii's Oil and HAZMAT Operations Plan
- IV. Report on Other States' Programs
- V. Available Grants
- VI. Data Management Advisory Committee - Preliminary Report
- VII. HSERC Goals & Objectives
  - A. Input on Draft Goals & Objectives
  - B. Finalize Goals & Objectives of the HSERC
- VIII. Schedule Next HSERC Meeting (#11)

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH

P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE

HSERC9.MIN-RG3

DRAFT MEETING SUMMARY  
HAWAII STATE EMERGENCY RESPONSE COMMISSION  
MEETING #9  
KINAU HALE BOARD ROOM, 1st FLOOR  
MONDAY APRIL 20, 1992, 1:00 p.m.

HSERC Commission Members and Representatives:

John C. Lewin, M.D., Chairman, HSERC, DOH  
Bruce Anderson, Ph.D., Vice Chairman, HSERC, DOH  
Roy Price for Major General Edward Richardson, DOD  
Gerald Kinro for Yukio Kitagawa, DOA  
Russell Charlton for Keith Ahue, DLIR  
Chipin Chang for William W. Paty, DLNR  
Ralph E. Moore for Rex D. Johnson, DOT  
Marilyn Shigetani for Jiggie Hommon, American Red Cross  
George Kekuna, Oahu Planning District  
Alejandro Lomosad for Clifford Ikeda, Kauai Planning District  
Sel Menor, Maui Planning District  
Harry Kim, Hawaii Planning District

Other Attendees:

Chris Takeno, OCD  
Capt. Henry Akua, HFD  
Capt. Ed Lingo, HPD  
Tom Batey, SCD  
Henry K. Kaacekami Jr., HFD  
Edward Kalinowski, KCC  
Alex Ho  
J.N. Vinton, PRI  
Judy So, State AG Office  
Mark Ingoglia, DOH/HEER  
Claire Hong, DOH/HEER  
Rhonda Goyke, DOH/HEER  
Terry Corpus, DOH/HEER

## I. OPENING REMARKS

- A. HSERC Chairman, Dr. Lewin, called the meeting to order and outlined the agenda. The two major topics on the agenda were an update of other state programs and a presentation by the Attorney General's Office on "Chapter 92" (Sunshine Law) requirements of a state commission.
- B. HSERC HANDBOOKS were distributed. The Handbooks are for reference and should be brought to all future meetings.
- C. EPA was unable to attend the workshop due to budgetary constraints, but sent reference materials to be used in the workshop. In addition, Kathleen Shimmin has evaluated the list of "Roles & Responsibilities of the HSERC" as discussed in meeting #8 and has sent a letter of endorsement for these minimum SERC requirements (see attachment 1).
- D. Discussion of minutes from Meeting #8  

Mr. Kim made one correction to the draft minutes. Page 5.H. should be clarified to state that the number of meetings should depend on the outcome of the orientation meeting. Mr. Price made a motion to approve the minutes with the correction made by Mr. Kim. The motion was unanimously passed.
- E. Input was requested regarding a refreshment fund for future meetings. Dr. Lewin stated that coffee and donuts would be supplied for the next meeting.
- F. Mr. Ingolia informed the Committee that if an executive meeting was needed during the meeting to discuss issues with the Deputy Attorney General, the executive meeting must be announced during the open session, along with the reason for holding the executive session. The Commission determined that an executive meeting was not necessary.

## II. Roles & Responsibilities of the HSERC

- A. The Industrial Training Systems Corporation video "Understanding Title III: Emergency Planning and Community Right to Know" was shown, as an overview of Title III.
- B. Rhonda Goyke presented an overview of other state programs (see attachment 2).
- C. Discussion

Mr. Ingolia lead a discussion session. Mark encouraged the commission to formally accept the minimum requirement of a SERC as stated in SARA Title III. Mark also queried Commission members as to what additional responsibilities should be established to facilitate HSERC operations.

Dr. Anderson pointed out that HSERC administrative rules are not required due to the way Title III is constructed. State and county agencies have enforcement power under Title III but any money generated would go to the Federal Government since the Federal law is in place.

Mr. Kekuna inquired as to who spends the money generated by other states fee programs. Rhonda Goyke answered that the SERCs of states with fee structures determine what amount of funding is needed and what fees are reasonable. State Legislatures determine what activities will be financed by the fee system.

Mr. Kim pointed out that the Kansas SERC has stated that a real commitment has been made to strong leadership and a conviction that Title III must be a way of life. Mr. Kim stated that responsibilities are overwhelming and it is difficult to know where to begin.

Claire Hong suggested that a good place to start would be the workload analysis discussed during meeting #8. This workload analysis breaks the requirements down to the minimum and provides a status report regarding how the HSERC is doing in fulfilling the requirements.

Mr. Ingoglia suggested that the best place to start is with the minimum requirements as stated in the law and to prioritize those requirements for implementation by the HSERC.

Mr. Kim suggested setting objectives. Mr. Kim stated that originally the objective of the HSERC was to complete the emergency response plan. Mr. Kim asked Commissioners what the HSERC's objectives should be now that the Plan is complete.

Dr. Anderson suggested that a commitment be made to the minimum responsibilities as Mark suggested and later augment the list. Dr. Lewin explained that what is needed is to prioritize the list, accept the responsibilities mandated by SARA Title III and try to fulfill the responsibilities as best as we can. Dr. Lewin asked commissioners for input.

Mr. Price stated that the State is actually in good shape with the existing infrastructure. What isn't needed is another agency superimposed on the existing structure causing duplication. The Fire Departments are the first responders and therefore the training effort should be focused on each county so that each county has first responders in the Fire Department who are adequately trained. However, Mr. Price further noted that data management needs to be improved. Clarification is needed regarding the county situation. As far as the goals and objectives of the HSERC and where our priorities lie, our priorities should be the 1st responders and the local fire departments.

Dr. Anderson agreed that attention does need to be given to the local level.

Mr. Kekuna stated that the County also has an existing infrastructure and the LEPC has just approved the City and County Emergency Response Plan submitted in February. However, cleanup of contamination is another problem altogether. Who should be responsible for cleanup and where are the money and resources coming from? What is needed is real investigators to investigate midnight dumpers and to educate the public. Also lacking are national standards for training. Everyone is offering different training courses and costs are often prohibitive.

Mr. Kim queried the Commissioners regarding their opinion on designating one LEPC district for the State.

Dr. Anderson stated that LEPC responsibilities needs to be tailored to each specific county according to their needs and local infrastructure.

For discussion purposes, Mr. Kim suggested changing the existing LEPC districts from four county districts to one LEPC district for the entire State. Mr. Kim further explained that all the work would remain the same except for the administrative responsibilities which would be the responsibility of the State. Mr. Kim explained that the work structure would remain as it is now except there would be no LEPC level.

Dr. Anderson asked Mr. Kim to clarify what he meant by administrative responsibilities.

Mr. Price stated that from a governmental point of view, one LEPC district is technically feasible, but from a community point of view it would not work. The law requires participation at a local level. In fact, the law states what types of people should be included. Interaction is needed with the community. Hawaii has an infrastructure, it was never intended for the LEPC to be an entity unto itself, but rather a community group.

Mr. Kim stated that in his opinion one district would be more efficient.

Mr. Moore stated that he believed that the Commission was loosing sight of its objective. SARA Title III's intent is to provide emergency planning and prevention, identify facilities and enforce the law. Mr. Moore further stated that the HSERC seems to be overlooking prevention and was concentrating solely on emergency response.

Mr. Menor stated that he feels that the Fire Departments and the SERC should do all the data management.

Dr. Anderson stated that time is needed to be reserved for the Deputy Attorney General to give her presentation. He asked for additional comments from commission members.

Mr. Price made the point that the Mayors could have rejected LEPC responsibility originally when the counties were designated as the LEPC districts.

Dr. Anderson stated that he felt that the Mayors originally had no idea of what was really involved. Dr. Anderson explained that there is only one State out of 50 which has a statewide LEPC, but we can look at Oregon to see how their LEPC is operating. Dr. Anderson asked for additional comments on Mark Ingoglia's suggestion that we vote on accepting the minimum requirements as stated in the law?

Mr. Kekuna stated that emergency response and hazardous waste are not combined at the state level and should be integrated.

Dr. Anderson stated that federally hazardous waste and emergency response were separate programs. Due to the shortage of time, Judy So was asked to present information on Chapter 92.

### III. Administrative Rules and Procedures

- A. Presentation by Judy So, Deputy Attorney General, regarding Chapter 92 and Chapter 92F and how these law affect State Commissions (see attachment 3).
- B. Question and Answer Session with Judy So

Mr. Ingoglia stated that the HSERC has been waiting to form a technical advisory committee regarding a statewide data management system until after Judy So's presentation. Mark asked Judy how to form a subcommittee.

Ms. So answered by stating that when there is any doubt always use the Sunshine Law.

Dr. Anderson inquired as to how the HSERC should be operating.

Ms. So strongly recommended complying with the Sunshine Law.

Mr. Price asked that a review be done of how the commission members were designated.

Ms. So stated that the Memorandum dated April 23, 1987 was not an Executive Order (EO). Ms. So explained that EPCRA is very detailed as to what is required. The purpose of an EO is to implement EPCRA and establish a SERC. It is up to the HSERC to establish their own desired rules, technical responsibility is up to the Commission.

Dr. Anderson stated that we will be working with Judy to determine whether any additional steps are needed to properly establish the commission.

Dr. Lewin stated that without an EO, the Commission may lack certain authorities. However, an EO may not be needed. We will proceed as we are now. We will also ask Judy to provide information on Tort Liability.

Ms. So stated that she could give a talk on State Tort Liability or could circulate the information first than if needed give a talk.

Dr. Lewin stated that eventually the HSERC will be required to deal with difficult situations and would like Judy to attend future HSERC meetings to offer legal guidance.

Dr. Anderson stated that a request would be submitted to Warren Price formally requesting Judy's attendance at future meetings. The floor was then opened for additional questions or comments.

Mr. Moore inquired as to what private sector representation there was on the HSERC.

Dr. Anderson stated that the University of Hawaii as well as the Red Cross were Commission members.

Mr. Moore stated that training needs to be included in our goals and objectives. Who needs what level of training? Mr. Moore stated that enforcement should be discussed and set as an objective.

Dr. Anderson explained that the HSERC does not replace any enforcement action or authority of any agency already in place.

Dr. Lewin suggested that the staff meet before the next HSERC meeting to brainstorm regarding goals and objectives. The information would then be circulated to the Commission members for comment.

Dr. Anderson stated that specifying the roles of the HSERC versus the LEPC should be postponed until the HSERC establish its own goals and objectives.

Dr. Lewin stated that for the next meeting the following would be agenda items:

1. Followup from Judy So
  - a) Do we have an EO?
  - b) Is an EO required?
  - c) Circulate information on Tort Liability.
  - d) Clarify requirements of the LEPC regarding the Sunshine Law
2. Goals and Objectives of the HSERC

The timing of the next meeting was discussed and it was determined that the next meeting would be scheduled for July.

Mr. Price made the motion to adjourn the meeting at 4:45 p.m.. The motion was unanimously passed.

This Draft Meeting Summary is submitted to the Hawaii State Emergency Response Commission.

Respectfully submitted,

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RHONDA K. GOYKE                      date

**CONTINGENCY PLAN  
HSERC ASSISTANCE TO HAWAII COUNTY LEPC**

■ Develop workshop/seminar for LEPC orientation.	2 wks
■ Conduct orientation workshop for LEPC members and interested parties.	8 hrs
■ Draft letter and do mail out to all Hawaii County LEPCs outlining their responsibilities and duties as well as meeting information.	16 hrs
■ Organize LEPC meeting (agenda, logistics, etc).	2 wks
■ Attend and assist at LEPC meeting	16 hrs
■ Visit Hawaii County CD and Hawaii FD to become familiar with the resources available.	8 hrs
■ Organize and facilitate meeting with DOH, HCD and HFD regarding possible non-compliers and possible compliance campaign.	32 hrs
■ Work with HCD personnel to update the Hawaii County Emergency Response Plan.	4 wks
■ Draft letters to elicit cooperation from facility who are required to prepare emergency response plans. Request copies of existing plans.	16 hrs
■ Assist HCD in the completion of hazard analysis required to complete the emergency response plan.	5 wks
■ Assist LEPC in establishing committee rules	2 wks
■ Assist LEPC in establishing procedures for public requests	8 hrs
■ Encourage the LEPC to designate Committee information coordinator	8 hrs
■ Assist LEPC in establishing recommendations regarding resources required to develop, implement and exercise plan	<u>2 wks</u>
<b>TOTAL ESTIMATED TIME REQUIRED</b>	<b>20 wks</b>



## SARA TITLE III

CURRENT STATUS:  
HAWAII COUNTY LEPC  
ROLES & RESPONSIBILITIES  
WITH WORKLOAD ANALYSIS

<u>MANDATORY LOCAL OR LEPC RESPONSIBILITIES</u>	<u>STATUS</u>	<u>FTE</u>
1. Committee to Appoint Chair Hawaii	Accomplished	0
2. Initial Emergency Plan Hawaii	Accomplished	0
3. Receive Tier II Information Hawaii	Accomplished	1 wk
4. Provide MSDS upon request Hawaii	On Going	1 wk
5. Annual LEPC meeting Hawaii	To Do	2 wks
6. Annual Review & Update of Emerg. Plan A. General Requirements		
(1) Designate a community emergency coordinator	To Do	1 hr
(2) Revise plan annually	To Do	2 wks
(3) Identify community & facility equip. & person(s) responsible	To Do	1 wk
(4) Emergency release notification procedures	Accomplished	0
(5) Determine methods & procedures to be followed by:		
(a) facility owners & operators	Accomplished On Tier II's	0
(b) local emergency response personnel	Accomplished	0
(c) medical personnel	To Do	?
(6) Training:		State
(a) local emergency response personnel	On Going	.3 FTE
(b) medical personnel	To Do	??
(7) Emerg. exercises, methods & schedules	To Do	1 hr
Total LEPC time required for general emergency planning Hawaii	3 wks	.08 FTE

B. Hazard Analysis Requirements - Note: This is the actual number of EHS facilities reporting to date (per FD & CD update 2/14/92). Enforcement has not been a priority for any of the counties except Maui.

(1) Identify

(a) Facilities	Accomplished	0
(b) Routes - (1 hr/EHS facility)		
Oahu 236	85% complete	1 wk
Maui 45	To Do	1 wk
Kauai 75	To Do	2 wks
Hawaii 12	To Do	12 hrs
(c) Additional facilities contributing to risk &/or subject to risk due to proximity (1 hr/fac)		
Oahu 236	85% complete	1 wk
Maui 45	To Do	1 wk
Kauai 75	To Do	2 wks
Hawaii 12	To Do	12 hrs
(2) Designate facility emergency coordinator	Accomplished	On Tier II's
(3) Determine release detection & area or population likely to be affected (8 hrs/fac.)		
Oahu 236 fac	85 % complete	7 wks
Maui 45	To Do (started)	9 wks
Kauai 75	To Do	15 wks
Hawaii 12	To Do	2.5 wks
(4) Evacuation plans (2 hrs/fac)		
Oahu 236	85 % complete	1.8 wks
Maui 45	To Do	2.5 wks
Kauai 75	To Do	3.8 wks
Hawaii 12	To Do	.5 wks
<b>Time required for Hazard Analyses (facilities could be required to provide this information to the LEPC)</b>		
Oahu	11 wks	.3 FTE
Maui	14 wks	.35 FTE
Kauai	23 wks	.6 FTE
Hawaii	4 wks	.1 FTE
7. Establish Committee Rules Hawaii	To Do	3 wks
8. Establish Procedures for Public Request Hawaii	To Do	1 wk
9. Designate Committee Information Coordinator Hawaii	To Do	1 hr
10. Make Recommendations on Resources Required to Develop, Implement and Exercise Plan		
Oahu	To Do	1 wk
Maui	To Do	1 wk
Kauai	50 % Complete	.5 wk
Hawaii	To Do	1 wk

**ESTIMATED YEARLY TIME REQUIRED FOR MANDATORY LEPC REQUIREMENTS**  
 (based on 200 dy/yr=FTE)

WITH Hazard Analyses  
 Hawaii 16 wks .4 FTE

WITHOUT Hazard Analyses  
 Hawaii 12 wks .3 FTE

**OPTIONAL LEPC RESPONSIBILITIES** **STATUS** **FTE**

- |    |  |                |                |
|----|--|----------------|----------------|
| 1. | Input Tier II Data according to Title III Data Management Plan<br>Hawaii | FD Partial     | 4 wks          |
| 2. | Upgrade computer system to CAMEO 3.0<br>Hawaii FD<br>CD                  | To Do<br>To Do | 2 wks<br>2 wks |
| 3. | Emergency Plan Exercise (emphasis on plan)<br>Hawaii                     | Partial        | 2 wks          |
| 4. | LEPC meeting every 6 months<br>Hawaii                                    | To Do          | 2 wks          |

ESTIMATED YEARLY TIME REQUIRED FOR  
**OPTIONAL LEPC RESPONSIBILITIES**  
 Hawaii 12 wks .3 FTE

**TOTAL LEPC FTE REQUIRED, without Haz. Anal.**  
 Hawaii 24 wks .6 FTE

**TOTAL LEPC FTE REQUIRED, including Haz. Anal.**  
 Hawaii 28 wks .7 FTE

**DRAFT**

July 2, 1992

DMTASKFC.MT1-RG3

HAWAII STATE EMERGENCY RESPONSE COMMISSION  
TECHNICAL ADVISORY TASK FORCE  
REGARDING DATA MANAGEMENT

MEETING HELD JUNE 23, 1992  
9:00 a.m. - 11:30 a.m.

ATTENDING

Joseph Blackburn, Maui County Fire Department  
Rhonda Goyke, DOH/HEER  
Clifford Ikeda, Kauai County CD  
Bill Norris, SCD  
Roy C. Price, Sr., SCD  
William Perry, DOH/HEER  
Spotswood Robertson, SCD  
Chris Takeno, Oahu County CD  
Ralph Yoshizumi, Hawaii County Fire Department

CONCEPT OF OPERATION

- Existing equipment and the existing infrastructure to be utilized as much as possible.
- Data manager designated by the Local Emergency Response Committees for each county. The data manager will be within the County Civil Defense Agency or within the County Fire Departments.
- County data manager inputs EPCRA information into CAMEO 3.01.
- LEPC responsible for quality control between the County Fire Department files and the LEPC files.

- EPCRA files transferred to the State DOH/HEER Office either by disk or through a modem.
- DOH/HEER responsible for quality control between the LEPC files and the DOH files.
- EPCRA files in CAMEO translated into IEMIS/CHIEF usable format.
- DOH transfers files to SCD.

#### FURTHER INVESTIGATION REQUIRED

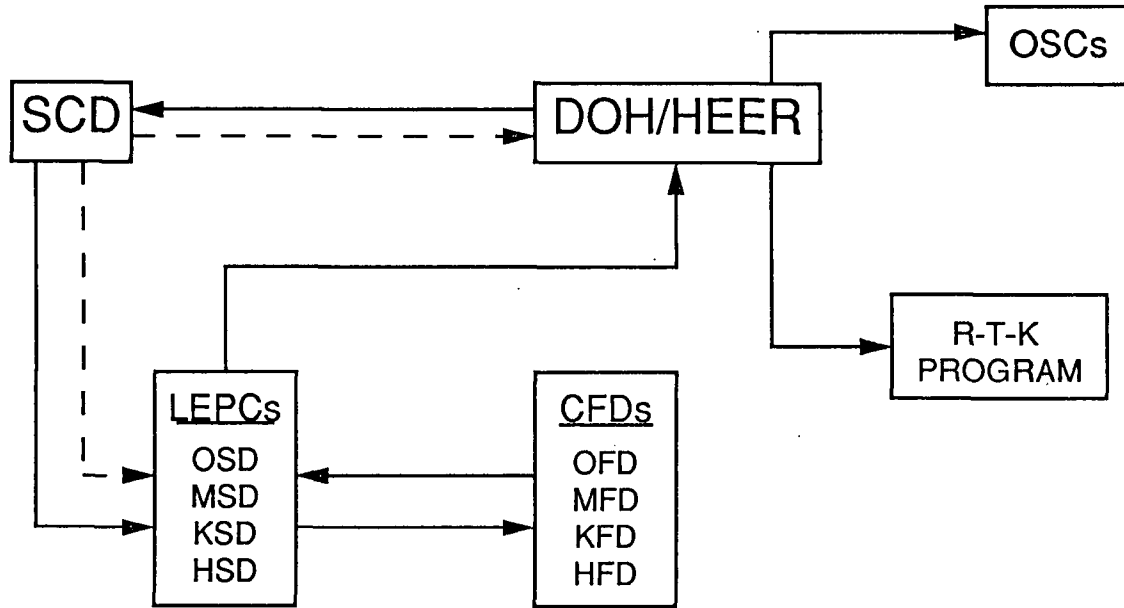
- Available translation programs. Bill Norris and Joe Blackburn to investigate possible translation programs available to translate CAMEO data into IEMIS/CHIEF usable format.
- County Fire Departments to be shown a demonstration of the CHIEF/IEMIS system to determine if there is any need for the County Fire Departments to access the SCD system.

#### NEEDED/PROBLEMS

- Translation program.
- DOH Macintosh upgraded to run existing CAMEO program (hardware and software on order).
- DOH requires TGRAF software to access SCD system (software on order).
- Hawaii County Fire Department's Macintosh needs more memory to run existing CAMEO program.
- Hawaii County Fire Department currently does not have data input included in any of the personnel job descriptions.

DRAFT

### HAWAII STATE EMERGENCY PLANNING & PREPAREDNESS COMPUTER NETWORK



—▶ CAMEO INFO FLOW  
-▶ CHIEF/IEMIS INFO FLOW

DRAFT

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE  
HSERC8.MIN-RG3

MEETING SUMMARY  
HAWAII STATE EMERGENCY RESPONSE COMMISSION  
MEETING #8  
KINAU HALE BOARD ROOM, 1st FLOOR  
FRIDAY FEBRUARY 21, 1992, 9:00 a.m.

HSERC Commission Members and Representatives:

Dr. John C. Lewin, Chairman, HSERC, DOH  
Bruce Anderson, Ph.D., Vice Chairman, HSERC, DOH  
Roy Price for Major General Edward Richardson, DOD  
Gerald Kinro for Yukio Kitagawa, DOA  
Russell Charlton, DLIR  
John P. Keppeler II for William W. Paty, DLNR  
Richard Kawakami for Marray Towill, DBED  
Jiggie Hommon, American Red Cross  
B.Z. Siegel for Jerrold M. Michael, UH School of Public Health  
George Kekuna, Oahu LEPC Chairman  
Clifford Ikeda, Kauai LEPC Co-Chair  
Sel Menor, Maui LEPC Co-Chair  
Harry Kim, Hawaii LEPC Chairman

Other Attendees:

Erwin Kawata, BWS  
Chris Takeno, OCD  
Leighton Ah Cook, SCD  
Eugene Lee, DPW  
LT Eric Mosher, USCG  
LTJ6 Pete Fontaine, USCG  
ENS Dave Pugh, USCG  
Thomas Vendetta, C&C  
Cpt. Carter Davis, HFD  
Cpt. Joseph Blackburn, MFD.  
LCDR Gregory Jones, MSO Honolulu  
Walter Nishimura, DOH/EMS  
Richard Rosen, PRI-ETI  
Dean Yoshihu, HDOA  
Chief Alejandro Lomasad, KFD  
Harding Fragas Jr.  
Mark Ingoglia, DOH/HEER  
Claire Hong, DOH/HEER  
Rhonda Goyke, DOH/HEER

requests for clarification of the roles and responsibilities of the HSERC and LEPCs. Based on this analysis, it appears that Oahu and Kauai are in good shape and are close to full compliance. Maui is making real progress with Captain Blackburn on board. Hawaii, we are sure will also catch up. It is clear that the LEPCs have already met many of the Title III requirements. Nonetheless, there is need for improvement in specific areas. However, the item requiring the biggest demand for time (i.e. hazard analysis) can be externalized.

There are both short-term and long-term options that should be considered. In the short-term, the LEPCs should be able to comply with Title III requirements with limited support from the HSERC, with the exception of the hazard analyses. Facilities can be required to do the hazard analysis for themselves. This would limit the LEPC responsibility to quality assurance. Facilities are often required to do their own hazard analyses under other environmental statutes. The HSERC could provide technical support for the externalize hazard analysis, this would also help to standardize the format. The facilities would also acquire a better understanding of Title III and the hazards present at their facilities.

Long-term options to support the LEPCs include: Title III laws establishing facility fees, which would go to the counties and acquiring planning and training money which may be available from DOT, but the details are unclear at this time.

### III. QUESTIONS & ANSWERS REGARDING STATUS REPORT

- A. Harry Kim commented that the responsibilities of the HSERC needs to be defined and that a orientation meeting is necessary. Dr. Lewin suggested that a training session be held in place of the next HSERC meeting to officially define the Commissions roles & responsibilities.
- B. Roy Price brought up the issue of the number of facilities listed per county in the analyses, why does Kauai with the smallest population have the most facilities? Clifford Ikeda explained that Kauai has been very active in identifying facilities. Dr. Lewin commented that these numbers are an indication that all sources have not been identified. Hawaii probably has more facilities than Maui, and Maui probably has more facilities than Kauai, but those facilities have not been identified to date.
- C. Roy Price expressed concern with going with CAMEO exclusively as a statewide network. Integrating CAMEO into his all-IBM system would require resources, e.g. training and manpower. Dr. Lewin suggested moving towards a common system approach which would work for CD and for the first responders. After further discussion, Dr. Anderson recommended that a subcommittee be formed to discuss and resolve the issue of a Title III Data Management System.
- D. Roy Price clarified that State Civil Defense has taken on the responsibility of exercises for the State and the HSERC and a four year plan is currently in place.
- E. George Kekuna stated that he has held off on ordering computers for Title III until these issues are resolved. Equipment and manpower are needed resources.
- F. Gregory Jones, USCG, suggested going through the RRT to obtain assistance from



NOAA in Data System decisions.

- G. George Kekuna commented quarterly HSERC meetings are needed in this developmental stage of the program until problems are resolved. The LEPC chairs and co-chairs also agreed that formal meetings were needed, the rules on running a commission should be followed.
- H. Harry Kim stated that until the HSERC and LEPC plans are complete and approved, Volume III stands alone. George Kekuna commented that the HSERC and LEPC plans are annexes to Volume III and encouraged everyone in the room to re-acquaint themselves with Volume III.

#### IV. Recommendations

- A. Dr. Lewin noted that a quorum was present and opened the floor for recommendations.
- B. Roy Price made a motion to approve the meeting minutes for #7, as written. Harry Kim had one correction to make to the minutes. Roy Price then made a motion to approve the minutes with corrections. The motion was passed.
- C. Dr. Anderson made a motion to form a subcommittee to make recommendations on the data management needs to meet Title III requirements. Issues to be resolved include:
  - 1. Converting to one system,
  - 2. Develop bridges to make IBM and Apple systems compatible, and
  - 3. Establish subcommittee to include: CD, DOH, and through RRT bring in an expert from NOAA.The motion was passed.
- D. Dr. Anderson recommended that a re-orientation meeting on Title III be scheduled. After some discussion it was decided that the re-orientation meeting should be kept small, but at a minimum all the HSERC members should attend. Roy Price stated that administrative rules also need to be established. Harry Kim stated that he would like to see how a model HSERC operates and that a presentation by EPA would be helpful. Carter Davis commented that a model may have already been distributed and a copy of the model should be in the historical files. The motion was then made to conduct a re-orientation meeting consisting of three segments:
  - 1. First, a re-orientation on SARA Title III. The workshop would be attended by HSERC members and staffed by EPA, AG and DOH. The objective of the workshop would be to discuss the mandatory and optional requirements of the HSERC and the LEPCs.
  - 2. The re-orientation segment would be followed by an administrative procedures establishment segment. This segment would be attended by HSERC members and staffed by EPA, AG and DOH.
  - 3. The third and final segment of the meeting would be to define the goals and objectives of the HSERC. The segment would be attended by the HSERC and staffed by AG and DOH. The motion was passed.

- E. Dr. Anderson recommended that the workshop meeting be held in place of the next HSERC meeting and that due to the pressures imposed by this year's legislative session three months from now would be the best. Harry Kim commented that three months was too long to wait, three weeks would be better. After some discussion the motion was made to schedule the workshop as soon as EPA staff could schedule time to be here, but no later than mid April. The motion was passed.
- F. Dr. Lewin recommended setting a minimum number of HSERC meetings to be held each year, suggesting two with the flexibility to have more meetings as needed. After some discussed the motion was made to have a minimum of four meetings a year. The motion was passed.
- G. Dr. Anderson recommended establishing a realistic deadline for LEPC plan review. Roy Price commented that this decision should actually wait until after the administrative rules are established at the workshop. No motion was made.
- H. Roy Price recommended establishing the frequency of LEPC meetings. He believes the LEPCs should meet at the same frequency as the HSERC. Preferably the LEPCs should meet prior to the HSERC meeting to establish recommendations for the HSERC meetings. George Kekuna commented that Oahu is planning a LEPC meeting for April and that he would agree that the LEPCs should meet four times a year. Dr. Lewin stressed that flexibility is important, and recommended establishing twice a year as a guide and then meet more frequently as needed. Harry Kim stated that the re-orientation workshop should come first, before committing to number of meetings per year. Harry stated that there was a need to express problems to the HSERC before committing. George Kekuna made the motion to defer setting number of HSERC and LEPC meetings to be held each year until after the administrative rules making session. The motion was passed.
- I. Roy Price made the recommendation that he be authorized to sign the FEMA Training System Form for the HSERC Chairman. After some discussion, the motion was made that the Director or Vice-Director of Civil Defense be authorized to act for the HSERC Chairman in the signing of the FEMA form for funding for Hazmat training. The motion was passed.
- J. Roy Price made the motion to adjourn the meeting at 11:35 a.m. The motion was passed.

This Meeting Summary is submitted to the Hawaii State Emergency Response Commission.

Respectfully submitted,

*Rhonda K. Goynke 5/24/92*  
RHONDA K. GOYKE date

## STATE AND LOCAL ROLES UNDER SARA TITLE III

<u>SECTION OF LAW</u>		<u>RESPONSIBILITY</u>	
Sec 301	(a)	Establish State Commission	State
		Appoint local emergency planning committees	State
		Supervise & coordinate LEPC activities	State
		Establish public request procedures	State
		Designate information coordinator	State
	(b)	Establish Emergency Planning Districts	State
	(c)	Appoint committees/assure minimum representation	State
		Committee to appoint chairperson	Local
		Establish committee rules	Local
		Establish committee procedures for public requests	Local
Designate committee information coordinator		Local	
Sec 302	(b)(2)	Designate and notify additionally covered facilities	State
	(d)	Notify EPA of covered facilities	State
Sec 303	(a)	Complete emergency plan	Local
	(b)	Make recommendations on resources required to develop, implement and exercise plan	Local
	(e)	Review and make recommendations on plan(s)	State
Sec 311	(c)(1)	Provide MSDS upon request	Local
Sec 312	(e)	Receive Tier II information	State & Local
Sec 313	(a)	Receive toxic chemical release forms	State
	(b)(2)	Discretionary application to additional facilities	State
	(e)	Petition for additional or deletion of listed chemicals	State

## SARA TITLE III

CURRENT STATUS:  
STATE & LOCAL ROLES & RESPONSIBILITIES  
WITH WORKLOAD ANALYSISPRIORITIZED STATE OR HSERC  
MANDATORY RESPONSIBILITIES

	<u>STATUS</u>	<u>FTE</u> (MINIMUM WORKLOAD)
1. Establish State Commission	Accomplished	0
2. Establish Emergency Planning Districts	Accomplished	0
3. Appoint Local Emergency Planning Committees/Ensure Minimum Representation	Accomplished	0
4. Designate Information Coordinator	Accomplished	0
5. Receive Tier II Information	On Going	8 wks
6. Receive Toxic Chemical Release Forms	On Going	4 wks
7. Supervise & Coordinate LEPC Activities	On Going	3 wks
8. Annual HSERC Meeting	On Going	2 wks
9. Establish Public Request Procedures	Draft Completed	1 wk/final
10. Review and Make Recommendations on Emergency Plans Prepared by the LEPCs	Review Due	3 wks
11. May Designate and Notify Additionally Covered Fac. and Notify EPA of Such Facilities (Sec. 302)	As Needed	TBD
12. May Request Discretionary Fac. Info. (Sec. 312)	As Needed	TBD
13. May Petition EPA for Addition or Deletion of Listed Chemicals	As Needed	TBD
<b>ESTIMATED YEARLY TIME REQUIRED FOR MANDATORY HSERC REQUIREMENTS</b>	<b>21 wks</b>	<b>.55 FTE</b>

OPTIONAL HSERC RESPONSIBILITIES

	<u>STATUS</u>	<u>FTE</u>
1. Fully implement Title III Data Management Plan	On Going UH Contract 9/30/92 complete date	4 wks
2. Public Outreach Project (UH \$70,000 contract, integrate into existing Data Management System)	On Going	4 wks
3. Emergency Response Exercises	On Going	2 wks
4. Staff the HSERC	On Going	3 wks
5. Facility coordination & information	To Do	3 wks
6. HSERC meeting every 6 months	To Do	2 wks
<b>ESTIMATED YEARLY TIME REQUIRED FOR OPTIONAL HSERC REQUIREMENTS</b>	<b>18 wks</b>	<b>.45 FTE</b>

**TOTAL FTE FOR HSERC****39 wks****1 FTE**

MANDATORY LOCAL OR LEPC RESPONSIBILITIESSTATUSFTE

	<u>STATUS</u>	<u>FTE</u>
1. Committee to Appoint Chair		
Oahu	Accomplished	0
Maui	Accomplished	0
Kauai	Accomplished	0
Hawaii	Accomplished	0
2. Initial Emergency Plan		
Oahu	Accomplished	0
Maui	Accomplished	0
Kauai	Accomplished	0
Hawaii	Accomplished	0
3. Receive Tier II Information		
Oahu	Accomplished	1 wk
Maui	Accomplished	1 wk
Kauai	Accomplished	1 wk
Hawaii	Accomplished	1 wk
4. Provide MSDS upon request		
Oahu	On Going	1 wk
Maui	On Going	1 wk
Kauai	On Going	1 wk
Hawaii	On Going	1 wk
5. Annual LEPC meeting		
Oahu	3/11/92	8 hrs
Maui	To Do	2 wks
Kauai	To Do	2 wks
Hawaii	To Do	2 wks
6. Annual Review & Update of Emerg. Plan		
A. General Requirements		
(1) Designate a community emergency coordinator	To Do	1 hr
(2) Revise plan annually	To Do	2 wks
(3) Identify community & facility equip. & person(s) responsible	To Do	1 wk
(4) Emergency release notification procedures	Accomplished	0
(5) Determine methods & procedures to be followed by:		
(a) facility owners & operators	Accomplished On Tier II's	0
(b) local emergency response personnel	Accomplished	0
(c) medical personnel	To Do	?
(6) Training:		State
(a) local emergency response personnel	On Going	.3 FTE
(b) medical personnel	To Do	??
(7) Emerg. exercises, methods & schedules	To Do	1 hr

Total LEPC time required for general emergency planning

Oahu	1 wk to finalize	.03 FTE
Maui	3 wks	.08 FTE
Kauai	3 wks	.08 FTE
Hawaii	3 wks	.08 FTE

B. Hazard Analysis Requirements - Note: This is the actual number of EHS facilities reporting to date (per FD & CD update 2/14/92). Enforcement has not been a priority for any of the counties except Maui.

(1) Identify

(a) Facilities	Accomplished	0
(b) Routes - (1 hr/EHS facility)		
Oahu 236	85% complete	1 wk
Maui 45	To Do	1 wk
Kauai 75	To Do	2 wks
Hawaii 12	To Do	12 hrs
(c) Additional facilities contributing to risk &/or subject to risk due to proximity (1 hr/fac)		
Oahu 236	85% complete	1 wk
Maui 45	To Do	1 wk
Kauai 75	To Do	2 wks
Hawaii 12	To Do	12 hrs
(2) Designate facility emergency coordinator	Accomplished	On Tier II's
(3) Determine release detection & area or population likely to be affected (8 hrs/fac.)		
Oahu 236 fac	85 % complete	7 wks
Maui 45	To Do (started)	9 wks
Kauai 75	To Do	15 wks
Hawaii 12	To Do	2.5 wks
(4) Evacuation plans (2 hrs/fac)		
Oahu 236	85 % complete	1.8 wks
Maui 45	To Do	2.5 wks
Kauai 75	To Do	3.8 wks
Hawaii 12	To Do	.5 wks

Time required for Hazard Analyses (facilities could be required to provide this information to the LEPC)

Oahu	11 wks	.3 FTE
Maui	14 wks	.35 FTE
Kauai	23 wks	.6 FTE
Hawaii	4 wks	.1 FTE

7. Establish Committee Rules		
Oahu	To Do	3 wks
Maui	To Do	3 wks
Kauai	To Do	3 wks
Hawaii	To Do	3 wks

8. Establish Procedures for Public Request		
Oahu	Draft	8 hrs/final
Maui	To Do	1 wk
Kauai	Accomplished	0
Hawaii	To Do	1 wk

9.	Designate Committee Information Coordinator		
	Oahu	Accomplished	0
	Maui	To Do	1 hr
	Kauai	Accomplished	0
	Hawaii	To Do	1 hr
10.	Make Recommendations on Resources Required to Develop, Implement and Exercise Plan		
	Oahu	To Do	1 wk
	Maui	To Do	1 wk
	Kauai	50 % Complete	.5 wk
	Hawaii	To Do	1 wk

**ESTIMATED YEARLY TIME REQUIRED FOR MANDATORY LEPC REQUIREMENTS**  
(based on 200 dy/yr=FTE)

**WITH Hazard Analyses**

Oahu	19 wks	.5 FTE
Maui	26 wks	.65 FTE
Kauai	34 wks	.85 FTE
Hawaii	16 wks	.4 FTE

**WITHOUT Hazard Analyses**

Oahu	8 wks	.2 FTE
Maui	12 wks	.3 FTE
Kauai	11 wks	.3 FTE
Hawaii	12 wks	.3 FTE

**OPTIONAL LEPC RESPONSIBILITIES**

**STATUS**

**FTE**

1.	Input Tier II Data according to Title III Data Management Plan		
	Oahu	FD Accomplished	4 wks
	Maui	FD Accomplished	4 wks
	Kauai	CD Accomplished	4 wks
	Hawaii	FD Partial	4 wks
2.	Upgrade computer system to CAMEO 3.0		
	Oahu FD	Accomplished	0
	CD	To Do (IBM D-Base4)	2 wks
	Maui FD	Accomplished	0
	CD	To Do (No Computer)	2 wks
	Kauai FD	To Do (No Computer)	2 wks
	CD	Accomplished	0
	Hawaii FD	To Do	2 wks
	CD	To Do	2 wks
3.	Emergency Plan Exercise (emphasis on plan)		
	Oahu	3/4/92	1 wk
	Maui	Partial	2 wks
	Kauai	Partial	2 wks
	Hawaii	Partial	2 wks
4.	LEPC meeting every 6 months		
	Oahu	To Do	2 wks
	Maui	To Do	2 wks
	Kauai	To Do	2 wks
	Hawaii	To Do	2 wks

**ESTIMATED YEARLY TIME REQUIRED FOR OPTIONAL LEPC RESPONSIBILITIES**

Oahu	10 wks	.25 FTE
Maui	10 wks	.25 FTE
Kauai	10 wks	.25 FTE
Hawaii	12 wks	.3 FTE

**STATEWIDE TRAINING - STATE CIVIL DEFENSE**

12 wks

.3 FTE

**TOTAL LEPC FTE REQUIRED, without Haz. Anal.**

Oahu  
Maui  
Kauai  
Hawaii

18 wks

.45 FTE

22 wks

.55 FTE

21 wks

.55 FTE

24 wks

.6 FTE

**TOTAL LEPC FTE REQUIRED, including Haz. Anal.**

Oahu  
Maui  
Kauai  
Hawaii

29 wks

.75 FTE

36 wks

.9 FTE

44 wks

1.1 FTE

28 wks

.7 FTE



## SUMMARY

## HSERC &amp; LEPC RESPONSIBILITIES, PRIORITIES &amp; WORKLOAD ANALYSIS

1.	HSERC	<u>FTE</u>
	A. Required responsibilities	.55
	B. Optional or additional responsibilities	.45
	<b>TOTAL FTE FOR HSERC RESPONSIBILITIES</b>	<b>1</b>
2.	LEPC	
	A. Required responsibilities, no Haz. Anal.	
	Oahu	.2 FTE
	Maui	.3 FTE
	Kauai	.3 FTE
	Hawaii	.3 FTE
	B. Hazard analysis only	
	Oahu	.3 FTE
	Maui	.35 FTE
	Kauai	.6 FTE
	Hawaii	.1 FTE
	C. Required responsibilities, with Haz. Anal.	
	Oahu	.5 FTE
	Maui	.65 FTE
	Kauai	.85 FTE
	Hawaii	.4 FTE
	D. Optional or additional responsibilities	
	Oahu	.25 FTE
	Maui	.25 FTE
	Kauai	.25 FTE
	Hawaii (both the FD & CD needs CAMEO 3.0)	.3 FTE
	<b>TOTAL FTE FOR LEPC RESPONSIBILITIES without Hazard</b>	
	Analyses	
	Oahu	.45 FTE
	Maui	.55 FTE
	Kauai	.55 FTE
	Hawaii	.6 FTE
	<b>TOTAL FTE FOR LEPC RESPONSIBILITIES with Hazard</b>	
	Analyses	
	Oahu	.75 FTE
	Maui	.9 FTE
	Kauai	1.1 FTE
	Hawaii	.7 FTE

## I. OPENING REMARKS

HSERC Chairman, Dr. Lewin, called the meeting to order and outlined the agenda. The primary topic on the agenda was LEPC Update & Status of State Implementation. Dr. Lewin mentioned that other agenda items may need to be deferred until the next meeting, with the exception of one item to be added by Roy Price when the recommendation section of the meeting was reached.

## II. LEPC UPDATE & STATUS OF STATE IMPLEMENTATION

### A. Background & Overview

Mark Ingoglia reported that this was the first HSERC meeting in over a year. The meeting planned for December was postponed due to scheduling problems and the need to establish a clear agenda. In February, several HSERC members met to discuss the relationship between Title III, the HSERC, the LEPCs, and the lack of resources, in a meeting sponsored by State Civil Defense. As staff to the HSERC, DOH analyzed the information generated in the SCD meeting to determine the status of each Counties implementation actions and what resources would be required to fulfill Title III. Mark further stated the need to go back to the basics and determine what is mandated under the law, and what can be done with the limited available resources to comply with the law as much as possible. Mark then introduced his staff, Claire Hong and Rhonda Goyke.

### B. Analyses

Rhonda Goyke reported on the roles and responsibilities of the HSERC and the LEPCs as stated in Title III. An updated status report was presented for both the HSERC and for the LEPCs by county, per Title III requirements. The analysis also included a workload analysis which estimated the amount of time that would be required to comply with each point of the law. The complete analysis and summary sheet are attached.

### C. Conclusions & Options

Mark Ingoglia commented that everyone recognizes that one of the big problems when Title III came on line was concurrently complying with Title III while taking over hazmat response at the state and county level. Faced with the competing demands for resources to implement Title III and to develop first responder capabilities, the LEPCs and the HSERC concentrated their efforts on the latter. The LEPCs have been doing a good job as first responders and now the State has four on-scene coordinators and 24 hour standby.

While many of the Title III requirements are being met by the HSERC and the LEPCs, additional planning work needs to be done. There was general agreement that the HSERC should meet more frequently. Mark presented staff recommendations that the HSERC consider meeting twice a year. The HSERC staff also recommended that the HSERC request the annual plans from the LEPCs.

Mark noted that Rhonda's presentation was designed to address the LEPCs' past



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, Ca. 94105-3901

April 13, 1992

Dr. John C. Lewin, Chairman  
Hawaii State Emergency Response Commission  
Department of Health  
P.O. Box 3378  
Honolulu, Hawaii 96801

Dear Dr. Lewin:

EPA sends words of encouragement to members of the Hawaii State Emergency Response Commission and the four Local Emergency Planning Committees who will be participating in a workshop April 20 to review their roles and responsibilities. The interest and commitment to renew the vision and efforts of the SERC and LEPCs is to be applauded.

The workplan, as provided at the Hawaii SERC meeting in February 1992, delineates the status and accomplishments of those endeavors. It is believed that the roles of the SERC and LEPCs as defined in that workplan fulfill the minimum requirements for implementation of the Emergency Planning and Community Right-to-Know Act.

EPCRA did not fade away after the first emergency plans were required of SERCs and LEPCs in October 1988. Matter of fact, the roles and responsibilities have expanded. New federal laws enacted over the last two years have widened the scope of hazmat planning and hazmat response. Beyond implementation of the various sections of EPCRA, many LEPCs are participating or preparing to work on Local Area Plans and the supplements to regional contingency plans for areas of risk as required by the Oil Pollution Act of 1990. The Area Committees for OPA are being established under the direction of a federal On-Scene Coordinator. With state and local officials (such as SERCs and LEPCs) these plans are being enhanced for state and local contingency planning and response.

Planning and prevention activities are being required of the Clean Air Act Amendments and the Pollution Prevention Act. In the future, for example, facilities will need to submit risk management plans to states and local emergency planners and make the plans available to the public.

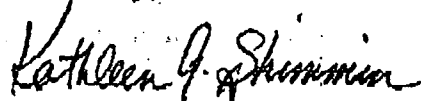
In another law passed in 1990, the Hazardous Materials Transportation and Uniform Safety Act will provide hazmat planning and training grants through the U.S. Department of Transportation. Seventy-five percent of the funds are earmarked to be used at the local level. In order to qualify, SERCs and LEPCs will need to certify compliance with the provisions of EPCRA.

EPA encourages the SERC and LEPCs to become familiar with these new laws to receive the full benefit of protecting their communities and environment.

If the Office of Health and Emergency Planning at EPA can be of any further assistance in supplying information about fulfilling the roles of the SERC and LEPCs, please let us know. The chemical emergency preparedness coordinator for Hawaii is Mike Ardito. He can be reached at (415) 744-2206. Mike regrets that due to tight travel budget constraints, EPA will be unable to attend the April 20 SERC/LEPC workshop and meeting. However, he has forwarded materials and information to be presented in EPA's absence.

Our office wishes the Hawaii SERC and LEPC members success and pride in accomplishing the goals of the continuing challenge to prevent or prepare for response to hazardous materials incidents. The residents and tourists of Hawaii will continue to value efforts to preserve their health in a fragile environment.

Sincerely,



Kathleen G. Shimmin  
Director  
Office of Health & Emergency Planning

cc: B. Anderson  
M. Ingolia

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH

P. O. BOX 3378  
HONOLULU, HAWAII 96801

June 17, 1992

In reply, please refer to:  
HEER OFFICE  
MEMOMA-RG3

Michael L. Ardito  
U.S. Environmental Protection Agency  
75 Hawthorne Street  
San Francisco, California 94105

Subject: Information regarding the Hawaii State Emergency Response Commission

Dear Mr. <sup>*Mike*</sup> Ardito:

Please find attached, the following:

1. The 1991 Spill Report and Database for Hawaii which you requested. I hope this information will be useful to Jerry Hyatt.
2. A copy of the Hawaii State Emergency Response Commission Handbook (minus NRT-1, NRT-1A). In addition, the Oil and Hazardous Materials Emergency Response Plan is currently being printed and will be forwarded upon completion.
3. Information from the last two HSERC meetings, as well as the Agenda for the next meeting which is scheduled for July 27, 1992.

While researching other state programs, it came to my attention that Kansas has submitted a report to EPA regarding their "Expert Computer System" for EPCRA compliance (I believe this computer program was financed with an EPA grant). I was wondering if it would be possible for you to track down the report from Kansas and send me a copy? The program sounds fascinating and may be something for Hawaii to strive for in the future.

Thanks again for all your help and if I can provide further information please call.

Sincerely,

A handwritten signature in cursive script that reads "Rhonda Gojke".

RHONDA GOYKE  
Office of Hazard Evaluation and Emergency Response



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 4 1992

OFFICE OF  
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Hazardous Materials Transportation Uniform Safety Act  
Notice of Proposed Rule, Federal Register March 2, 1992

FROM: Sherry Fielding, CEPPD *Sherry*

TO: Chemical Emergency Preparedness and Prevention Regional  
Coordinators, Regions I - X

Attached is a copy of the HMTUSA proposed rule. As is indicated in the notice, DOT is allowing for a 60 day comment period, with comments due to them by May 1, 1992. DOT has indicated they will send copies to Governors, Tribal Chairpersons, SERCs, and LEPCs as soon as they receive documents from the printers, probably the middle of next week.

At the next conference call on March 17, we will discuss timelines for you to provide your input, so that EPA can submit one set of comments. Also, please alert your States and your Tribes to the fact that this notice is being sent to them.

If you have any questions, please call me at FTS 260-6174.

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# Federal Register

Monday  
March 2, 1992

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## Part V

### Department of Transportation

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Research and Special Programs  
Administration

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49 CFR Part 110  
Hazardous Materials: Public Sector  
Training and Planning Grants; Proposed  
Rule

4

7474

Federal Register / Vol. 57, No. 41 / Monday, March 2, 1992 / Proposed Rules

## DEPARTMENT OF TRANSPORTATION

Research and Special Programs  
Administration

49 CFR Part 110

[Docket No. HM-209, Notice No. 92-3]

RIN 2137-AC09

Interagency Hazardous Materials;  
Public Sector Training and Planning  
GrantsAGENCY: Research and Special Programs  
Administration (RSPA), DOT.ACTION: Notice of proposed rulemaking  
(NPRM).

**SUMMARY:** The Research and Special Programs Administration (RSPA) is proposing a rule to implement a reimbursable grant program to enhance existing State and local hazardous materials emergency preparedness and response programs. This reimbursable grant program is required by section 117A (49 App. U.S.C. 1815) of the Hazardous Materials Transportation Act (HMTA), as amended by the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA). Section 117A authorizes the Department to provide assistance to States for emergency response planning and to States and Indian tribes for emergency response training. The purpose of the grant program is to: Increase State, local, and Indian tribal effectiveness in safely and efficiently handling hazardous materials accidents and incidents; enhance implementation of the Emergency Planning and Community Right To Know Act of 1980 (EPCRA); and encourage a comprehensive approach to emergency planning and training by incorporating the unique challenges of response to transportation situations. The proposed rule provides the application requirements specific to this grant program.

Where practicable, the Department proposes to rely on its general grant provisions contained in 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

**DATES:** Comments are due on or before May 1, 1992.

**ADDRESSES:** Address comments to Dockets Unit (DHM-30), Hazardous Materials Safety, RSPA, Department of Transportation, Washington, DC 20590-0001. Comments should identify the docket and notice number; five copies, if possible, should be submitted. Receipt of comments will not be confirmed unless a self-addressed stamped postcard is provided. Public dockets

may be reviewed on normal business days between 8:30 a.m. and 5 p.m. in the Dockets Unit, room 8421, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590-0001. Copies of the "Hazardous Materials Transportation Uniform Safety Act of 1990" (HMTUSA), Public Law 101-615, may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9371, (202) 275-2091.

**FOR FURTHER INFORMATION CONTACT:** Susan Bullard or Charles Rogoff, Office of Hazardous Materials Initiatives and Training, Research and Special Programs Administration (RSPA), Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone: 202-366-4900.

**SUPPLEMENTARY INFORMATION:** This proposed regulation sets forth the application procedures for the planning and training grant program established by section 117A of the HMTA. The proposed regulation augments the requirements contained in 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

**I. Background**

The HMTUSA amended HMTA (49 App. U.S.C. 1801 *et seq.*) to assign new responsibilities to the Department of Transportation (DOT) and strengthen interagency coordination and technical assistance with respect to hazardous materials emergency planning and training. Within DOT, RSPA has been delegated the responsibility for overseeing the program authorized in section 117A of the HMTA.

Section 117A, "Public Sector Training and Planning," creates a program for RSPA and other Federal agencies to: Provide financial and technical assistance, national direction, and guidance to enhance State and local hazardous materials emergency planning and training; and enhance overall implementation of EPCRA. The program developed under the leadership of RSPA will increase the emphasis on transportation in ongoing efforts—improving the capability of communities to plan for and respond to the full range of potential risks they face.

The reimbursable grant program is supported by fees collected pursuant to section 117A(h) of HMTA. Section 106 of HMTA establishes a registration program of shippers and carriers of certain hazardous materials. On October 10, 1991, RSPA proposed in the Federal Register (56 FR 51294) to assess

and collect from all persons who are required to be registered an annual fee to fund this reimbursable grant program.

Implementing guidance which addresses such issues as allocation criteria, measures against which grant applications will be evaluated, explanation of certifications required, and relationship of the grant program to the national curriculum is in development. This guidance will be included in an application package which will be provided to applicants following publication of the final rule.

**A. Overview of the Reimbursable Grant Program**

Section 117A of HMTA authorizes financial assistance to States for emergency response planning and to States and Indian tribes for training public sector employees to respond safely and efficiently to accidents and incidents involving hazardous materials, including those involving transportation. The goal of the program is to provide assistance to planners, trainers, and responders at the local level.

As proposed in § 110.30, a planning or training grant application from a State or Tribe must be accompanied by a letter from the Governor or tribal authority designating an entity to receive Federal funds and provide the required written certifications.

In support of the intent and ongoing implementation of EPCRA, RSPA is proposing to accept applications from and award grants to the State or Tribal Emergency Response Commission or an established agency which is an active participant in the Emergency Response Commission. The designated entity should have substantive knowledge of the status of planning and training under EPCRA, familiarity with State and local emergency preparedness and response capabilities and training needs, understanding of the intent and mandate of HMTUSA, and proven capability to administer a Federal grant program. In addition, the designated entity would be asked to certify that appropriate disciplines are represented in the ongoing emergency planning and training process (e.g., senior state fire official, environmental and emergency management, and transportation representatives). A statement that all members of the State or Tribal Emergency Response Commission have been given the opportunity to review the application would also be required.

**1. The Planning Grant Program**

Under Section 117A(a)(1) of HMTA, planning grants may be made to reimburse States for: (1) Developing,



improving, and implementing emergency plans under the Emergency Planning and Community Right-To-Know Act of 1988 (EPCRA); (2) determining the flow patterns of hazardous materials within a State and between a State and another State; and (3) determining the need for regional hazardous materials emergency response teams. Section 117A of HMTA builds upon and enhances the existing framework established under EPCRA.

To qualify for a planning grant, a State must: (1) Certify that it is complying with sections 301 and 303 of EPCRA; (2) certify that it will maintain a two fiscal year average of its own aggregate level of expenditures for developing, improving, and implementing emergency plans under EPCRA; and (3) agree to make at least 75 percent of the Federal funds provided available to local emergency planning committees (LEPCs) established pursuant to section 301(c) of the Emergency Planning and Community Right-To-Know Act.

Section 117A of HMTA does not authorize RSPA to provide planning grants to Indian tribes.

#### 2. The Training Grant Program

Under Section 117A(b)(1), training grants may be made to reimburse States and Indian tribes for training public sector employees to respond safely and efficiently to accidents and incidents involving hazardous materials, including those involving transportation.

To qualify for a training grant, a State must: (1) Certify that it is complying with sections 301 and 303 of the EPCRA; (2) certify that it will maintain a two fiscal year average of its own aggregate level of expenditures for training public sector employees to respond to accidents and incidents involving hazardous materials; (3) agree to make at least 75 percent of the Federal funds provided available for the purpose of training such employees either employed or used by political subdivisions; and, (4) agree to use courses consistent with the National Curriculum developed under Section 117A(g).

To qualify for a training grant, an Indian tribe must certify that it will maintain a two fiscal year average of its own aggregate level of expenditures for training public sector employees to respond to accidents and incidents involving hazardous materials.

The HMTA defines Indian tribes by reference to the Indian Self-Determination and Education Act (25 U.S.C. 4506). The Secretary of Interior has issued regulations (25 CFR 272.2) defining "Federally-recognized" Indian tribes under that law. RSPA is proposing

in this regulation to accept applications for training grants from federally-recognized Indian tribes.

#### B. Relationship to the Emergency Planning and Community Right-To-Know Act of 1988 (EPCRA)

Section 117A enhances and strengthens ongoing efforts and relationships established under the Emergency Planning and Community Right-To-Know Act.

EPCRA: (1) Establishes authorities for emergency planning and preparedness, emergency notification, community right-to-know, and toxic chemical release reporting; and, (2) calls for the creation of an infrastructure including State emergency response commissions (SERCs), emergency planning districts and local emergency planning committees (LEPCs). These State and local emergency preparedness and response entities are traditionally relied upon to: (1) Provide a forum for coordinating information; (2) assist in understanding and communicating the associated risks of hazardous materials to the public; and (3) support State-wide and local emergency response planning efforts.

Section 117A(a)(1) of HMTA gives RSPA the opportunity to provide financial assistance to States for emergency response planning called for under EPCRA. States, in turn, are required to make at least 75 percent of the Federal funds provided available to local emergency planning committees. Section 117A(b)(3) requires that 75 percent of the Federal funds for training assistance benefit public sector employees.

A State may not receive a planning or training grant unless it certifies that it is complying with sections 301 and 303 of the EPCRA. After consulting with EPA and FEMA and taking into consideration the dynamic nature of this program, RSPA is proposing to accept self-certification of a State's progress and current status in achieving compliance.

Therefore, RSPA is proposing with respect to section 301 that an applicant certify that a SERC has been established, emergency planning districts have been designated and LEPCs have been appointed by the SERC. The applicant must describe the status of the LEPCs' emergency response plans and their compliance with EPCRA section 303. Section 117A of HMTA does not require Indian tribes to make these assurances.

#### C. Financial Issues

##### 1. Pass-Through of Planning Funds to Local Emergency Planning Committees (LEPCs)

Section 117A(a)(3) of HMTA requires States to "make available not less than 75 percent of the funds granted to local emergency planning committees established pursuant to section 301(c) of EPCRA by the State emergency response commission." RSPA proposes to require the States to make available 75% of the LEPCs.

##### 2. Funding Political Subdivisions in the Training Grant Program

Section 117A(b)(3) of HMTA requires a State to "make available at least 75 percent of the funds granted . . . for the purpose of training public sector employees employed or used by the political subdivisions." HMTA does not require Indian tribes to make this assurance. Funding could be passed through to a local political subdivision. If a State elects to conduct such training itself, assurances must be provided that the training will in fact benefit public sector employees at the local level.

##### 3. Maintenance of Effort Requirements

In order to qualify for a grant, States and Indian tribes must certify that the aggregate expenditure of funds, exclusive of Federal funds, used to support emergency response planning and training, will be maintained at a level which does not fall below the average level for the last two fiscal years.

##### 4. Non-Federal Cost-Share Requirements

States and Indian tribes must contribute a matching share to any grant awarded. The cost-share requirement for both planning and training is set by section 117A(d) of HMTA at 20 percent. RSPA is proposing to require that States and Indian tribes satisfy the cost-sharing requirement with cash. RSPA is also considering whether to accept in-kind contributions. Comments are specifically requested on whether to accept in-kind contributions to meet the matching requirements and on types of in-kind contributions that would meet the requirements.

#### D. Use of Federal Funds by Recipients

Funds may be used to carry out specific activities identified in section 117A of HMTA. For planning grants, those activities are: (1) Developing, improving, and implementing emergency plans, including determination of flow patterns of hazardous materials within a State and between States; and (2)

determining the need for regional hazardous materials emergency response teams. For training grants, 75 percent of the funds must be used to benefit public sector employees to respond to incidents or accidents involving hazardous materials. Activities conducted could include training efforts designed for public officials who are not responders, but who perform activities associated with emergency response plans developed under EPCRA. Operational equipment to be used in response is excluded from consideration for funding under this grant program. RSPA welcomes comments on the activities that are eligible for funding proposed in § 110.40 of the rule.

#### *E. Allocation of Federal Funds*

The funding level for the planning portion of the grant program is set by section 117A(f) of HMTA at \$5 million and for the training portion at \$7.8 million per Federal fiscal year for 1993 through 1994. These funds are "no-year money" which means that RSPA does not have to make grant awards in the same year that funds become available. Therefore, there is no need to set a single deadline for the submission of grant packages. RSPA is proposing as guidance to accept grant applications on a semi-annual basis (January 1 and July 1) or the first business day thereafter.

Section 117A(b)(7) of HMTA specifies criteria RSPA is to consider for allocating training funds, which are based on need. There is no comparable provision in the law for allocating planning funds. RSPA proposes to use these criteria to the extent practicable in allocating planning funds.

RSPA is proposing to consider several factors in distributing grant funds. Some of the factors under consideration include the number of hazardous materials facilities, types and amounts of hazardous materials transported, population at risk, frequency and number of incidents recorded in past years, high mileage transportation corridors, whether the State or tribe assesses and collects fees on the transportation of hazardous materials and whether such assessments or fees are used solely to carry out purposes related to the transportation of hazardous materials, and other factors that are deemed appropriate. RSPA plans to acquire this information from other Federal agencies, industry and States.

RSPA seeks comments on the factors that it should consider in allocating grant funds.

#### *F. Application assistance*

RSPA intends to receive and review applications, and make grant awards from its Washington, DC offices. Preapplication support, including assistance from other implementing Federal agencies, will be made available as soon as the rule is made final and details will be provided at that time.

#### *II. Role of Other Federal Agencies in the Implementation of Section 117A of HMTA*

Section 117A of HMTA permits the Secretary, DOT, to seek guidance from and consult with the following Federal agencies: Environmental Protection Agency (EPA); Department of Energy (DOE); Occupational Safety and Health Administration (OSHA); the Federal Emergency Management Agency (FEMA); the Nuclear Regulatory Commission (NRC); and the National Institute of Environmental Health Sciences (NIEHS). RSPA is proposing to use representatives from these agencies and other agencies in an advisory role in reviewing and approving planning and training grant applications for: (1) identify related training and planning programs; (2) resolve implementation and policy issues that overlap between agencies; (3) maximize the benefit of limited resources; and, (4) minimize the duplication of effort.

FEMA, in coordination with DOT, EPA, DOE, and NIEHS, will monitor public sector emergency response training and planning for accidents and incidents involving hazardous materials. Based upon the results of the monitoring, these same agencies will provide technical assistance to States, political subdivisions and Indian tribes. This group will also assist RSPA in developing and periodically updating a curriculum called for under section 117A(g) of HMTA. Known as the National Curriculum, the guidelines and courses of study identified will provide the basis for the training grants and enable public sector employees to comply with applicable OSHA and EPA regulations related to emergency response training, as well as those non-governmental standards for training issued by the National Fire Protection Association (NFPA).

#### *III. The Proposed Grant Mechanism and Administrative Requirements*

##### *A. General Information*

The Office of Management and Budget (OMB) revised OMB Circular A-102 by establishing a government-wide "common rule" which prescribes administrative requirements for Federal assistance to States, Indian tribes, and

local governments. DOT implemented the common rule through 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." RSPA is required to use the administrative requirements in all sections of 49 CFR part 18, unless there is a legislative or OMB-approved exception.

Consequently, applicants and recipients for section 117A planning and training grants must comply with 49 CFR part 18, as well as other DOT regulations that are incorporated by reference in 49 CFR part 18 pertaining to grants. These other regulations include: 49 CFR part 20, "Restrictions on Lobbying;" 49 CFR part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation;" 49 CFR part 23, "Participation by Minority Business Enterprise in Department of Transportation Programs;" 49 CFR part 27, "Nondiscrimination on the Basis of Handicap Programs and Activities Receiving or Benefiting from Federal Financial Assistance;" 49 CFR part 29, "Governmentwide Debarment and Suspension (Non-Procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);" and 49 CFR part 90, "Audits of State and Local Governments."

Copies of the laws and regulations referenced in the proposed rule are generally available through Depository Libraries and are on file in RSPA's Dockets Unit.

##### *B. Grant Application*

Because assistance provided under this section is intended to support a six-year comprehensive planning and training program, the funds and spending authority are no-year. Therefore, RSPA is encouraging submission of applications for multi-year projects from States and Indian tribes. Alternatively, an applicant may elect to apply for a grant on an annual basis for a specific project.

RSPA seeks to create a performance-based program that builds on and supports the accomplishment of long-term goals and objectives. Under the multi-year approach, activities approved in a scope of work would be funded according to the schedule for activities authorized in the grant. The recipient would be required to provide a performance report at the completion of one phase of activity—before proceeding with the next set of activities.

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### C. Financial Administration

Planning and training are two parts of a comprehensive national grant program; applicants are encouraged to request funds to conduct one or both in a single application package. RSPA may award funds for both in one grant document. Since both components are funded separately by a special registration fee program, RSPA believes it has a fiduciary responsibility to obligate and account for planning and training funds separately. Therefore, RSPA is proposing separate cost accounting requirements for the grant program in § 110.70. RSPA does not believe such a proposal would impose a burden on any recipient.

### D. Grants Administration

#### 1. Procurement

The grant program as proposed does not appear to pose contracting or procurement dilemmas for the States. RSPA is proposing in § 110.80 that recipients rely on their own procurement methods unless they conflict with Federal laws and standards as defined in 49 CFR part 18.

#### 2. Reporting

Section 110.90 proposes to require performance reports at the completion of projects for which reimbursement is being requested. Performance reports are particularly important to RSPA when a recipient has a multi-year project and may request amendments to add funds until a project is completed. RSPA is proposing that recipients report on planning and training separately consistent with the proposal to require separate cost accounting.

#### 3. Financial status reports

RSPA is proposing that recipients supply quarterly financial status reports. A recipient may be permitted to carry unexpended obligations from one year to the next. However, the dollar amount of future grant awards or amendments may be reduced by the amount of carryover funds available. This proposal is intended to maximize the amount of money RSPA has available for the planning and training grant program as a whole. RSPA may reallocate resources if carryover spending authority is not used.

#### 4. Exceptions to the Rule

Applicants and/or recipients may petition RSPA to waive non-statutory requirements that are not applicable to their circumstances as prescribed in § 110.120. Deviations should not be commonplace, however, and commenters are asked to advise RSPA

of potential hardships during the proposed rulemaking process to help improve the rule where necessary.

### IV. Rulemaking Analyses and Notices

#### Executive Order 12291 and DOT Regulatory Policies and Procedures

This proposed regulation has been evaluated in accordance with existing regulatory policies and is considered non-major under Executive Order 12291. The proposed regulation is not considered to be significant under DOT's Regulatory Policies and Procedures ("the Procedures") (44 PR 11034; February 26, 1979). In accordance with the Procedures, RSPA has determined that preparation of a Regulatory Evaluation is not necessary because the costs of the proposed regulation are expected to be minimal.

#### B. Regulatory Flexibility Act

RSPA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal would have a positive economic impact on a number of small entities, including small units of government. The HMTA planning and training grant program represents a small but statutorily mandated gain to States and localities.

By mandating that at least 75 percent of Federal funds provided for planning be passed through the LEPCs and that at least 75 percent of Federal funds provided for training be used to support public sector employees, the grant program will provide financial assistance to cities, counties, and other political subdivisions.

#### C. Executive Order 12612

The proposed rule has been reviewed in accordance with Executive Order 12612 ("Federalism"). The HMTA specifies that States may apply for grants if they meet certain statutory criteria. The rule as proposed will implement the statutory requirements at a minimum level. The Federal-State relationship will be enhanced as a result of the grant funding provided. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

#### D. Paperwork Reduction Act

The information to be collected as part of this rulemaking document is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). The information requirements for this proposed rule are the same as

those set forth for most Federal grant programs and are consistent with OMB Circular A-102. Comments on the collection of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Transportation. All comments must reference the title for this notice.

#### E. Regulation Identification Number (RIN)

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### F. National Environmental Policy Act

RSPA has evaluated this proposed regulation in accordance with its procedures for ensuring full consideration of the environmental impacts of DOT actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.1c. This proposed regulation meets the criteria that establish it is a non-major action for environmental purposes.

#### List of Subjects in 49 CFR Part 110

Disaster assistance, Education, Emergency preparedness, Grant programs—Environmental protection, Grant programs—Indians, Hazardous materials transportation, Hazardous substances, Indians, Reporting and recordkeeping requirements.

In 49 CFR, part 110 is proposed to be added, to read as follows:

#### PART 110—HAZARDOUS MATERIALS PUBLIC SECTOR TRAINING AND PLANNING GRANTS

Sec.	
110.1	Purpose.
110.4	Scope.
110.10	Eligibility.
110.20	Definitions.
110.30	Grant application.
110.40	Activities eligible for funding.
110.50	Disbursement of Federal funds.
110.80	Cost sharing for planning and training.
110.70	Financial administration.
110.80	Procurement.
110.90	Grant monitoring, reports, and records retention.
110.100	Enforcement.
110.110	After grant requirements.

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Sec.

110.120 Deviation from this part.

110.130 Disputes.

Authority: 49 App. U.S.C. 1815; 49 CFR part 1.

## § 110.1 Purpose.

This part sets forth procedures for reimbursable grants for public sector planning and training in support of the emergency planning and training efforts of States, Indian tribes, and local communities to deal with hazardous materials emergencies, including those involving transportation. These grants will enhance the implementation of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001).

## § 110.5 Scope.

(a) This part applies to States and Indian tribes and contains the program requirements for public sector training and planning grants to support hazardous materials emergency planning and training efforts.

(b) The requirements of this part augment the requirements contained in 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," which apply to grants issued under this part.

(c) Copies of standard forms and OMB circulars referenced in this part are available from the Research and Special Programs Administration Dockets Unit (DHM-30), Hazardous Materials Safety, RSPA, U.S. Department of Transportation, Washington, DC 20590-0001. The Dockets Unit is located in Room 8421 of the MASSIF Building, 400 Seventh Street, SW.

## § 110.10 Eligibility.

This part applies to States and Indian tribes. States may apply for planning and training grants. Federally-recognized Indian tribes may apply only for training grants.

## § 110.20 Definitions.

Unless defined in this part, all terms defined in section 103 of the Hazardous Materials Transportation Act (HMTA) (49 App. U.S.C. 1802) are used in their statutory meaning and all terms defined in 49 CFR part 18 and OMB Circular A-102, with respect to administrative requirements for grants, are used as defined therein. Other terms used in this part are defined as follows:

*Allowable costs* means those costs that are: eligible, reasonable, necessary, and allocable to the project permitted by the appropriate Federal cost principles, and approved in the grant.

*Cost analysis* means the review and evaluation of costs to determine

reasonableness, allocability, and allowability.

*Funding period* means the period of time when Federal funds are available in a grant.

*Indian country* means Indian country as defined in 18 U.S.C. 1151. That section defines Indian country as all land within the limits of any reservation under the jurisdiction of the U.S. government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; all independent Indian communities within U.S. borders whether within the original or subsequently acquired territory thereof; all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

*Indian tribe* means those tribes "Federally-recognized" by the Secretary of the Interior under 25 CFR 272.2.

*Local Emergency Planning Committee (LEPC)* means a committee appointed by the State Emergency Response Commission under section 301(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001(c)), that includes at a minimum, representatives from each of the following groups or organizations: Elected State and local officials; law enforcement, firefighting, civil defense, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and owners and operators of facilities subject to the emergency planning requirements.

*National curriculum* means the curriculum required to be developed under section 117A of HMTA and necessary to train public sector emergency response and preparedness teams, enabling them to comply with performance standards as stated in section 117A(g)(4).

*Political subdivision* means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937 (42 U.S.C. 1401 et seq.)), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

*Project* means the activities and tasks identified in a grant.

*Project manager* means the State or Indian tribal official designated in a grant as the program contact with the Federal government.

*Project officer* means the official designated in a grant program contact with the recipient. Project officers are responsible monitoring the project.

*Project period* means the length of time specified in a grant for completion of all work associated with that project.

*State Emergency Response Commission (SERC)* means the State Emergency Response Commission appointed by the Governor of each State and Territory under the Emergency Planning and Community Right-to-Know Act of 1986.

*Statement of Work* means that portion of a grant that describes the purpose and scope of activities and tasks to be carried out as part of the proposed project.

## § 110.30 Grant application.

(a) *General.* An applicant for a planning or training grant shall use only the standard application forms approved by the Office of Management and Budget (OMB) (SF-424 and SF 424A) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3502). Applicants are required to submit an original and two copies of the application package. Amendment applications must include an original and two copies of the affected pages; previously submitted pages with information that is still current do not have to be resubmitted. The application must include the following:

(1) Application for Federal Assistance for non-construction programs (SF-424) and Budget sheets (SF-424A). A single application may be used for both planning and training if the budgets for each are entered separately on all budget sheets.

(2) For States, a letter from the Governor designating the State agency that is authorized to apply for a grant and to provide the written certifications required to receive a grant.

(3) For Indian tribes, a letter from the tribal government, governing body, or tribal council to the effect that the applicant is authorized to apply for a grant and to provide the written certifications required to receive a grant.

(4) A written statement explaining whether the State or tribe assesses and collects fees on the transportation of hazardous materials and whether such assessments or fees are used solely to carry out purposes related to the transportation of hazardous materials.

(5) A statement designating a project manager and providing the name, position, address and phone number of that individual who will be responsible

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for coordinating the funded activities with other agencies/organizations.

(6) A project narrative statement of the goals and objectives of the proposed project, project design and long range plans. The proposed grant project and funding periods may be one or more years.

(7) A statement of work in support of the proposed project that describes and sets priorities for the activities and tasks to be conducted, the costs associated with each activity, the number and types of deliverables and products to be completed, and a schedule for implementation.

(8) A description of supplies and equipment needed to implement the statement of work, a justification, and a copy of the cost analysis performed for these needs to determine reasonableness, allocability, and allowability to the proposed project.

(9) *Drug-Free Workplace Certification.* The applicant must certify as specified in appendix C of 49 CFR part 29 that it will comply with the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, title V, subtitle D; 51 U.S.C. 701 *et seq.*).

(10) *Anti-Lobbying Certification.* The applicant must certify as specified in appendix A of 49 CFR part 20 that no Federal funds will be expended to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress (Section 319 of Pub. L. 101-121, 31 U.S.C. 1352).

(11) *Debarment and Suspension Certification.* The applicant must certify as specified in subpart C of 49 CFR part 29 that it will not make an award or permit any award to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs.

(b) *Planning.* In addition to the requirements specified in paragraph (a) of this section, eligible State applicants must include the following in their application package:

(1) A written certification indicating that the State is complying with sections 301 and 303 of the Emergency Planning and Community Right-to-Know Act of 1986, including a brief explanation of how compliance has been achieved.

(2) A written statement specifying the aggregate expenditure of funds of the State, exclusive of Federal funds, for each of its last two fiscal years for developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-to-Know Act of 1986, including an

explanation specifying the sources of these funds. A written certification that the State's aggregate expenditures of funds for this purpose, exclusive of Federal funds, will not fall below the average level of its expenditures for its last two fiscal years. The applicant may not claim any of these expenditures for cost-sharing.

(3) A written statement agreeing to make at least 75 percent of the Federal funds awarded available to LEPCs and an explanation of how the applicant intends to make such funds available to them for developing, improving, or implementing emergency plans.

(4) Designation of a project manager to serve as contact for coordinating planning funds under this program.

(5) A project narrative statement of the goals and objectives of each proposed project, including the following—

(i) A background statement describing the applicant's long-term goals and objectives with respect to:

(A) The current abilities and authorities of the applicant's program for preparedness planning;

(B) The need to sustain or increase program capability;

(C) Current degree of participation in or intention to assess the need for a regional hazardous materials emergency response team; and

(D) The impact that the grant will have on the program.

(ii) A discussion of whether the applicant's program currently knows, or intends to assess transportation flow patterns of hazardous materials within the State and between that State and another State.

(iii) A schedule for implementing the proposed grant activities.

(iv) A statement describing the ways in which planning will be monitored by the recipient.

(v) A statement indicating that all members of the State Emergency Response Commission were provided the opportunity to review the grant application.

(c) *Training.* In addition to the requirements specified in paragraph (a) of this section, eligible State and Tribal applicants must include the following in their application package:

(1) For a State applicant, a written certification explaining how the State is complying with sections 301 and 303 of the Emergency Planning and Community Right-to-Know Act.

(2) A written statement specifying the aggregate expenditure of funds of the State or Indian tribe, exclusive of Federal funds, for each of its last two fiscal years for training public sector employees to respond to accidents and

incidents involving hazardous materials, including an explanation specifying the sources of these funds. A written certification that the applicant's aggregate expenditure of funds for this purpose, exclusive of Federal funds, will not fall below the average level of its expenditures for its last two fiscal years. The applicant may not claim any of these expenditures for cost-sharing purposes.

(3) For a State applicant, a written statement agreeing to make at least 75 percent of the Federal funds awarded available for the purpose of training public sector employees employed or used by political subdivisions. A State applicant may elect to pass all or some portion of the 75 percent on to political subdivisions for this purpose. The applicant must include a specific explanation of how it intends to accomplish either one or both of these goals.

(4) Designation of a primary point of contact for coordinating training funded under this program (e.g., fire training director, fire colleges, training centers, etc.). Identification of a single repository for copies of course materials delivered under the grant as specified in § 110.90.

(5) A project narrative statement of the long-range goals and objectives of each proposed project, including the following:

(i) A background statement describing:

(A) The current training program(s);

(B) Training audience including numbers and levels of training and accreditation program for each level or criteria required to advance to the next level;

(C) Estimated total number to be trained under this grant program;

(D) The ways in which training grants will support the decentralized delivery of training to meet the needs of individualized geographic and resource needs and time considerations of local responders. Where necessary, a statement describing how the grant program will accommodate the different training needs for rural versus urban environments; and

(E) The impact that the grant and the National Curriculum will have on the program.

(ii) A statement describing how the National Curriculum will be used or modified to train public sector employees at the local level to respond to accidents and incidents involving hazardous materials.

(iii) A statement describing the ways in which training will be monitored by the recipient, including but not limited to

random examinations, inspections, and audits of training.

(iv) A schedule for implementing the proposed training grant activities.

(v) A statement indicating that all members of the State or Tribal Emergency Response Commission were provided the opportunity to review the grant application.

**§ 110.40 Activities eligible for funding.**

(a) *Planning.* Eligible State applicants may receive funding for the following activities:

(1) Development, improvement, and implementation of emergency plans required under the Emergency Planning and Community Right-to-Know Act of 1986, as well as exercises which test the emergency plan. Enhancement of emergency plans to include response procedures for emergencies involving transportation of hazardous materials, including radioactive materials.

(2) An assessment to determine flow patterns of hazardous materials within a State, between a State and another State or Indian country, and development and maintenance of a system to keep such information current.

(3) An assessment of the need for regional hazardous materials emergency response teams.

(4) An assessment of local response capabilities to determine the distribution of Federal funds under the grant.

(5) Development of information materials to educate the public about the transportation of hazardous materials, including radioactive materials.

(6) Conduct of emergency response drills and exercises associated with emergency preparedness plans.

(7) Technical staff to support the planning effort. Staff funded under planning grants cannot be diverted to support other requirements of the Emergency Planning and Community Right-to-Know Act.

(8) Additional activities RSPA deems appropriate to implement the scope of work for the proposed project plan and approved in the grant.

(b) *Training.* Eligible State and Indian tribe applicants may receive funding for the following activities:

(1) An assessment to determine the number of public sector employees employed or used by a political subdivision who need training and to select courses consistent with the National Curriculum.

(2) Delivery of comprehensive preparedness and response training to public sector employees. Design and delivery of such training to meet specialized needs. Travel assistance for trainees, such as tuition, travel expenses

to and from a training facility, and room and board while at the training facility, and for the trainers, if appropriate.

(3) Emergency response drills and exercises associated with training, a course of study, and emergency preparedness plans.

(4) Expenses associated with training by a person (including a department, agency, or instrumentality of a State or political subdivision thereof or an Indian tribe) and activities necessary to monitor such training including, but not limited to, random examinations, inspections, and audits of training.

(5) Staff to manage the training effort resulting in increased benefits, proficiency, and rapid deployment of local and regional responders.

(6) Additional activities RSPA deems appropriate to implement the scope of work for the proposed project and approved in the grant.

**§ 110.50 Disbursement of Federal funds.**

(a) The applicant may not be reimbursed for the costs of activities to be conducted under a grant prior to the award of such grant.

(b) Reimbursement may not be made for a project plan until approved in the grant award.

(c) If a recipient seeks additional funds, the amendment request will be evaluated on a needs and performance basis against the availability of funds to determine whether the amendment request is appropriate. An existing grant does not commit future Federal funding.

**§ 110.60 Cost sharing for planning and training.**

The recipient must provide 20 percent of the direct and indirect costs of all activities covered under the grant award with non-Federal funds. Funds used for matching purposes under any other Federal grant or cooperative agreement may not be used for matching purposes. The funds expended by a recipient to qualify for the grant may not be used for cost-sharing purposes.

**§ 110.70 Financial administration.**

(a) A State must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to—

(1) Permit the preparation of reports required by 49 CFR part 18 and this part, including the tracing of funds provided for planning to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available to LEPCs for developing,

improving, and implementing emergency plans; and the tracing of funds provided for training to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available for the purposes of training public sector employees employed or used by political subdivisions.

(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of Indian tribes and any subgrantees shall meet the standards of 49 CFR 18.20, including the ability to trace funds provided for training to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available for the purposes of training public sector employees employed or used by political subdivisions.

(c) To be allowable, costs must be eligible, reasonable, necessary, and allocable to the approved project in accordance with OMB Circular A-87 and included in the grant award before Federal funds may be used by the grantee. Costs incurred prior to the award of any grant are not allowable. Recipients are responsible for obtaining audits in accordance with the Single Audit Act of 1984 (31 U.S.C. 7501), 49 CFR part 90, and OMB Circular A-128. Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits. RSPA may audit a recipient at any time.

**§ 110.80 Procurement.**

Recipients shall use procurement procedures and practices which reflect applicable State laws and regulations and Federal requirements as specified in 49 CFR part 18. RSPA may review a recipient's procurement procedures and practices of LEPCs, political subdivisions, subgrantees and contractors, as appropriate.

**§ 110.90 Grant monitoring, reports, and records retention.**

(a) *Grant monitoring.* Recipients are responsible for managing the day-to-day operations of grant, subgrant and contract-supported activities. Recipients must monitor performance of supported activities to assure compliance with applicable Federal requirements and achievement of performance goals. Monitoring must cover each program, function, activity, or task covered by the grant. Monitoring and reporting

11

requirements for planning and training are contained in this part; general grant reporting requirements are specified in 49 CFR 18.40.

(b) *Reports.* (1) The recipient shall submit a performance report at the completion of a project for which reimbursement is being requested or with a request to amend the grant. The final performance report is due 90 days after the expiration or termination of the grant.

(2) Recipients shall submit an original and two copies of all performance reports. Performance reports for planning and training must contain brief information on the following: a comparison of actual accomplishments to the objectives established for the performance period and the reasons for slippage.

(3) Recipients shall report developments or events that occur between the required performance reporting dates which have significant impact upon the planning and training activity such as—

(i) Problems, delays, or adverse conditions which will impair the ability to meet the objective of the grant; and

(ii) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(4) Financial reporting, except as provided in § 110.70 and 49 CFR 18.41, shall be supplied quarterly using Standard Form 270, Financial Status Report, to report the status of funds.

Each recipient shall report separately on planning and training.

(c) *Records retention.* In accordance with 49 CFR 18.42, all financial and programmatic records, supporting documents, statistical records, training materials, and other documents generated under a grant shall be maintained by the recipient for three years from the date the recipient submits its last expenditure report. The recipient shall designate a repository and single point of contact for planning and for training or both for these purposes. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

#### § 110.100 Enforcement.

If a recipient fails to comply with any term of an award (whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere) an enforcement action may be taken as specified in 49 CFR 18.43. The recipient may appeal any such actions as specified in 49 CFR part 18. Costs incurred by the recipient during a suspension or after termination of an award are not allowable unless RSPA authorizes it in writing. Grant awards may be terminated in whole or in part with the consent of the recipient at an

agreed upon effective date, or by the recipient upon written notification.

#### § 110.110 After grant requirements.

The awarding agency will close out the award when it determines that all applicable administrative actions and all required work of the grant is complete in accordance with subpart D of 49 CFR part 18. The recipient must submit all financial, performance, and other reports required as a condition of the grant, within 90 days after the expiration or termination of the grant. This time frame may be extended by RSPA for cause.

#### § 110.120 Deviation from this part.

Applicants or recipients may request a deviation from the non-statutory provisions of this part. RSPA will respond to such requests in writing. If appropriate, the decision will be included in the grant award.

#### § 110.130 Disputes.

Disagreements should be resolved at the lowest level possible, beginning with the project manager and the project officer. If an agreement cannot be reached, the Administrator, RSPA, will serve as the dispute resolution official, whose decision will be final.

Issued in Washington, DC on February 28, 1992, under authority delegated in 49 CFR part 106, appendix A.

Alan L. Roberts,  
Associate Administrator for Hazardous  
Materials Safety.

[FR Doc. 92-4747 Filed 2-23-92; 8:45 am]  
BILLING CODE 4910-49-U

12



STATE OF HAWAII  
DEPARTMENT OF HEALTH

P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:

FIVE WATERFRONT PLAZA, SUITE 250  
500 ALA MOANA BOULEVARD  
HONOLULU, HI 96813  
FAX # (808) 586-4370

FACSIMILE REQUEST AND COVER SHEET  
(Use Black or Blue Ink Only)

DATE: 7/23/92 No. of pages (Incl. cover sheet): 2

TO: LARRY LAU

Office/Phone/Mail stop: AG 587-3050

FAX 587-3077

FROM: RHONDA GOYKE

Office/Phone/Mail stop: DOH/HEER 586-4251

SUBJECT/MESSAGE: I am you may want to be  
at the meeting at 9:00. your "talk" is  
scheduled first. Introduction should take  
5-10 min. Thanks.

SIGNATURE OF SENDER: Rhonda Goyke

NOTE: If this transmittal was incomplete or illegible, please call the sender's office.



JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH

P. O. BOX 3378  
HONOLULU, HAWAII 96801

May 28, 1992

In reply, please refer to:  
DAJ.9FU2503 HSERC OFFICE

To: Laurence K. Lau, Deputy Attorney General  
Department of the Attorney General

From: Rhonda K. Goyke *Rhonda K. Goyke*  
Office of Hazard Evaluation and Emergency Response

Subject: Assistance to the Hawaii State Emergency Response Commission

As follow up to our May 27, 1992 telephone conversation, we understand that Judy So is on maternity leave for an undetermined length of time. As such, we are requesting the attendance of an alternate Deputy Attorney General at the next Hawaii State Emergency Response Commission (HSERC) meeting. The next HSERC meeting is scheduled for July 27, 1992, from 9:00 a.m. to 12:00 noon in Kinau Hale's 1st Floor Boardroom. For your information, inclosed are copies of previous correspondence from the HSERC to the Department of the Attorney General.

As follow up to the April 20, 1992 HSERC meeting, we are requesting that you provide a brief presentation to clarify the following issues raised at the meeting:

- 1) Although an official executive order was not issued by the Governor establishing the HSERC as a commission, Judy So indicated to staff that receipt of federal funding by the HSERC for hazardous materials training provides the necessary criterion for the body to be recognized as a commission. Does the HSERC need additional official authorization? Should an executive order be issued at this point in time?
- 2) Are the Local Emergency Planning Committees (LEPCs) a subcommittee of the HSERC? Is the Sunshine law applicable to the LEPCs?
- 3) Please provide an information packet on Tort Liability to Rhonda Goyke for distribution to the HSERC members.

Thank you again for your assistance, we look forward to working with you in the future.

RG:rg

c: Sonia Faust, Deputy Attorney General

enclosures

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE  
DAJ.9FU-RG3

May 5, 1992

To: Judy So, Deputy Attorney General  
Department of Attorney General

From: Bruce S. Anderson, Ph.D. *Bruce S. Anderson*  
Deputy Director for Environmental Health

Subject: Followup to the Hawaii State Emergency Response Commission (HSERC) meeting held on April 20, 1992

We wanted to take this opportunity to thank you for your participation at the Hawaii State Emergency Response Commission (HSERC) meeting on April 20, 1992. Your presentation on the "Sunshine Law" and related commission law was informative and clarified many issues regarding the operation of a state commission.

As followup to the HSERC meeting we would like to clarify the following:

- 1) An official executive order was not issued by the Governor establishing the HSERC as a commission. You have indicated to staff that receipt of federal funding by the HSERC for hazardous materials training does provide the necessary criterion for the body to be recognized as a commission. We appreciate your determination on this issue.
- 2) In light of the above information, should an executive order be issued at this point in time?
- 3) Are the Local Emergency Planning Committees (LEPCs) a subcommittee of the HSERC? Is the Sunshine law applicable to the LEPCs?
- 4) Please provide an information packet on Tort Liability to Rhonda Goyke for distribution to the HSERC members.

To keep you up to date, Dr. Lewin will be formally requesting your attendance and assistance at future HSERC meetings as an advisor to the HSERC.

Thank you again for your assistance, we look forward to working with you in the future.

BSA:RG

c: Sonia Faust, Deputy Attorney General

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE

March 4, 1992

ADMINRLS.AG

To: Sonia Faust, Deputy Attorney General  
Attorney Generals Office

From: J. Mark Ingoglia, M.P.H., Manager, *J. Mark Ingoglia*  
Office of Hazard Evaluation and Emergency Response

Subject: Applicable Law, Administrative Rules, and Procedures of the Hawaii State  
Emergency Response Commission (HSERC)

The Hawaii State Emergency Response Commission (HSERC) was established in 1986, by the Governor, in response to the Emergency Planning and Community Right-To-Know Act of 1986, Section 301 (a copy of the law is attached for your information). The Department of Health was designated as the implementing agency. Since its inception in 1986 the Commission has met eight times and to date has not established formal administrative rules or policies. At this time the HSERC needs clarification on any laws, administrative rules or procedures that a public commission must follow. Dr. Lewin has requested that the Attorney General's office be asked for assistance in this matter. Due to the short time frame, I am contacting you directly, although we can provide an additional Director's request should you indicate the need.

Specifically, Dr. Lewin has requested the following assistance from the Office of the Attorney General:

1. An outline of the administrative rules that a commission must follow;
2. Staff briefing on the administrative rules and how they apply to the HSERC; and
3. A presentation of the Administrative rules by the AG to the HSERC at the next HSERC meeting scheduled for April 7, 1992 (draft Agenda attached).

In addition, could you advise us on the following questions which have been raised by the commission:

Ms. Faust  
March 4, 1992  
Page 2

1. Can the HSERC meet for a workshop without following the requirements of the "Sunshine Law" in regards to posting of the notice and mailing out the agenda?
2. How can a technical subcommittee be formed? What rules apply to the subcommittee?
3. What is the proper procedure for updating the HSERC mailing list for agenda notifications?

Please call me at 586-4248 if you have any questions and to arrange a time for the staff briefing. Thank you for your assistance.

c: Dr. John C. Lewin, Director of Health  
Dr. Bruce S. Anderson, Deputy Director of Health

#### Attachments

1. Emergency Planning and Community Right-To-Know Act of 1986.
2. HSERC meeting #9 Draft Agenda

JMI:RG

JOHN WAIHEE  
GOVERNOR OF HAWAII




JOHN G. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE  
DAJ.9FU-RC3

May 5, 1992

To: Judy So, Deputy Attorney General  
Department of Attorney General

From: Bruce S. Anderson, Ph.D.   
Deputy Director for Environmental Health

Subject: Followup to the Hawaii State Emergency Response Commission (HSERC) meeting held on April 20, 1992

We wanted to take this opportunity to thank you for your participation at the Hawaii State Emergency Response Commission (HSERC) meeting on April 20, 1992. Your presentation on the "Sunshine Law" and related commission law was informative and clarified many issues regarding the operation of a state commission.

As followup to the HSERC meeting we would like to clarify the following:

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- 2) In light of the above information, should an executive order be issued at this point in time?
- 3) Are the Local Emergency Planning Committees (LEPCs) a subcommittee of the HSERC? Is the Sunshine law applicable to the LEPCs?
- 4) Please provide an information packet on Tort Liability to Rhonda Goyke for distribution to the HSERC members.

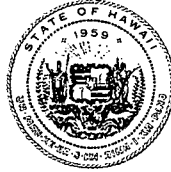
To keep you up to date, Dr. Lewin will be formally requesting your attendance and assistance at future HSERC meetings as an advisor to the HSERC.

Thank you again for your assistance, we look forward to working with you in the future.

BSA:RG

c: Sonia Faust, Deputy Attorney General

JOHN WAIHEE  
GOVERNOR OF HAWAII



*mu*  
*DDEN*

WARREN PRICE, III  
ATTORNEY GENERAL

RECEIVED  
OFFICE OF THE DIRECTOR  
DEPT. OF HEALTH  
ROBERT A. MARKS  
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII  
DEPARTMENT OF THE ATTORNEY GENERAL  
REGULATORY DIVISION

92 JUN 23 P1:56

465 SOUTH KING STREET, ROOM 200  
HONOLULU, HAWAII 96813-2913  
(808) 587-3050  
FAX (808) 587-3077

June 15, 1992

TO: The Honorable John C. Lewin, M.D.  
Director of Health

THROUGH: The Honorable Warren Price, III *W*  
Attorney General

FROM: Sonia Faust *S.F.*  
Deputy Attorney General

SUBJECT: Emergency Response Commission Meetings

Deputy Attorney General Judy So will be assigned to assist the Hawaii State Emergency Response Commission. Ms. So is on maternity leave, but expects to return to the office next month and should be able to attend the July 27, 1992, meeting. If, for any reason she cannot attend that meeting, a substitute will be provided.

SF:kmf  
1526R

JOHN WAIHEE  
GOVERNOR OF HAWAII




JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE  
E0704RG.3

July 13, 1992

To: Sonia Faust, Deputy Attorney General  
Attorney Generals Office

From: Steve Armann, Manager   
Office of Hazard Evaluation and Emergency Response

Subject: Hawaii State Emergency Response Commission Meeting Scheduled for July 27,  
1992, 9:00 a.m. to 12:00 noon

The next Hawaii State Emergency Response Commission (HSERC) meeting is scheduled for July 27, 1992 at 9:00 a.m. in the Kinau Hale 1st Floor Board Room at 1250 Punchbowl Street. We request the attendance of a Deputy Attorney General at this meeting.

During a recent conversation with Dr. Lewin regarding the HSERC meeting, Dr. Lewin indicated his preference that Mr. Bill Tam attend the meeting. It is our understanding that Mr. Tam has participated in similar commission meetings in the past with Dr. Lewin.

Your assistance in obtaining the services of Mr. Tam or another Deputy Attorney General is appreciated. Should you have any questions regarding this matter please contact Ms. Rhonda Goyke at 586-4251. Thank you for your assistance.

SA:rg

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH

P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE

July 8, 1992

MTG10NOT.2-RG3

MEMORANDUM

To: The Hawaii State Emergency Response Commission  
(HSERC) Members

From: *For* John C. Lewin, M.D., Chairman, *John C. Lewin*  
The Hawaii State Emergency Response Commission

Subject: FOLLOW UP NOTICE FOR HSERC MEETING #10

This is to remind you of the next meeting of the Hawaii State Emergency Response Commission (HSERC) scheduled for Monday July 27, 1992, 9:00 a.m. to 12:00 noon. The meeting will be held at the Department of Health's Kinau Hale Board Room, 1st Floor, 1250 Punchbowl Street.

One of the main objectives of this meeting is to discuss and finalize the goals and objectives of the HSERC by the end of the meeting. We are soliciting comments on the draft goals and objectives from all HSERC members. To facilitate the discussion at the meeting, please fax your comments to Rhonda Goyke at 586-4370 by July 17, 1992. Attached is a copy of the draft goals and objectives as well as a copy of the "Mission Statement and Goals" of the Nevada SERC, as an example of what another SERC has done as far as establishing goals and objectives.

Enclosures

1. Draft HSERC Goals & Objective
2. Mission Statement and Goals of the Nevada SERC

JCL:RG



HAWAII STATE EMERGENCY RESPONSE COMMISSION  
GOALS & OBJECTIVES

May 1992

**MISSION:** TO ESTABLISH EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW PROGRAMS IN HAWAII. THROUGH ADEQUATE PREPARATION AND PLANNING, THESE PROGRAMS WILL PREVENT AND MITIGATE RELEASES OF OIL AND HAZARDOUS SUBSTANCES IN HAWAII.

**GOAL:** TO PROVIDE STATE LEADERSHIP AND SUPPORT TO PLAN FOR, PREPARE FOR & PREVENT OIL AND HAZARDOUS SUBSTANCE EMERGENCIES IN THE STATE OF HAWAII.

**OBJECTIVES:**

1. COMPLIANCE WITH APPLICABLE LAWS

Establish a comprehensive state program for Emergency Planning and Community Right-to-Know Act (EPCRA) requirements in accordance with the mandates of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and all other applicable laws or regulations.

2. PROGRAMMATIC ISSUES

Establish a funding mechanism and maintain capable personnel at the State and

County levels to implement the mandates of EPCRA and the emergency planning and community right-to-know programs developed by the HSERC.

3. DATA MANAGEMENT

Establish and maintain an effective, well coordinated State-wide data management system for Title III Emergency Planning and Community Right-to-Know information.

4. SUPPORT AND GUIDANCE

Provide guidance and assistance to the LEPCs, as needed. Provide critical review of LEPC emergency response plans on an annual basis. Maintain the Hawaii State Oil and Hazardous Substance Emergency Response Plan. Ensure exercises are conducted to adequately evaluate and practice implementing the emergency response plans.

5. TRAINING AND PREPAREDNESS

Assist in reviewing guidance and resources available to train appropriate personnel. Evaluate the adequacy of equipment available for oil and hazardous materials emergencies.

6. OUTREACH

Establish and maintain a public outreach program to inform the community of

the possible hazards in their community. Foster community involvement in local program planning and operations. Encourage industry to join the State in an effort to prepare for and prevent oil and hazardous materials emergencies.

7. EPCRA ENFORCEMENT

In cooperation and coordination with EPA, develop an effective enforcement program to compel responsible parties to comply with the mandates of EPCRA.

BOB MILLER  
Governor

STATE OF NEVADA

WAYNE R. TEGLIA  
Co-Chairman  
(702) 687-5375

ROBERT BROADBENT  
Co-Chairman  
(702) 739-5211



## EMERGENCY RESPONSE COMMISSION

555 Wright Way  
Carson City, Nevada 89711-0900

### STATE EMERGENCY RESPONSE COMMISSION

#### MISSION STATEMENT AND GOALS

##### MISSION STATEMENT

The mission of the State Emergency Response Commission which was established by the Governor of the State of Nevada and mandated by Public Law 99-499 is the oversight and implementation of that law's mandated provisions as described therein.

##### GOALS

Consistent with its Mission Statement, the Commission's goals are specific to all provisions of PL 99-499 and related matters encompassing designation and support of Local Emergency Planning Committees, community planning and efforts to improve public safety capabilities, hazardous materials identification and reporting requirements, community right-to-know provisions and all other requirements contained within SARA Title III.

Assignments and goals are delegated to member agencies, sub-committees and staff by SERC which retains its program management/oversight responsibilities for SARA Title III program implementation.

Current goals with sub-committee assignments include the following:

1. On-going support for Local Emergency Planning Committees (SERC, LEPC representatives, staff)
2. LEPC Communications and Representation (SERC, LEPC representatives, staff)
3. Support Local Emergency Planning Committees by way of training/equipment and operations grants (Contingency Fund/Training)
4. Establish and administer standards for the evaluation and administration of SERC grants (Contingency Fund/Training)

5. Support SARA Title III activities delegated by SERC to member agencies through grant process.  
(Contingency Fund/Training)
6. Establish training criteria and guidance relative to SARA Title III training  
(Contingency Fund/Training)
7. Coordinate the delivery of SARA Title III training programs within the State of Nevada  
(Contingency Fund/Training)
8. Development of SERC's legislative proposal  
(Legislative)
9. Strategy/Assistance in moving proposal through the legislature  
(Legislative)
10. Tracking of SARA Title III related legislation  
(Staff/Legislative)
11. Legislative updates for SERC  
(Legislative)
12. Assure 24 hour access of Title III data to all local jurisdictions in Nevada  
(Information Management)
13. Facilitate LEPC informational management requests relative to data and systems  
(Information Management)
14. Provide information management, technical, and advisory assistance to SERC  
(Information Management)
15. Consolidate Reporting Forms  
(Staff/Policy & Procedures)
16. Development of SERC Operational Guidelines  
(Policy & Procedures)
17. Additional Procedures as needed in support of LEPC  
(Policy & Procedures)
18. Development of procedures to facilitate SERC process and timeliness of action  
(Policy & Procedures)
19. Methods/Procedures to further greater coordination and cohesion among SERC entities  
(Policy & Procedures)
20. Maintain chemical incident response among the State's

Emergency Planning Districts based on coordinated chemical emergency response planning  
(Community Planning)

21. Support the development and maintenance of chemical hazard identification and assessment information to maximize planning and response effectiveness  
(Community Planning)
22. Support the Division of Emergency Management in the correct preparation of local Title III emergency response plans (annexes) as set forth in federal guidance (SARA Title III; Section 303)  
(Community Planning)
23. Conduct Title III emergency response plan reviews annually and not later than 90 days after the required annual review by Local Emergency Planning Committees and within 90 days after notification by the Division of Emergency Management of any change in the emergency planning district which could significantly alter response planning  
(Community Planning)
24. Research legislative initiatives taken by other states to enforce SARA Title III provisions  
(Enforcement)
25. Work closely with SERC Legislative Sub-committee on enforcement issues that may arise from SERC's legislative proposal  
(Enforcement)
26. Provide enforcement information and advice to SERC as needed  
(Enforcement)

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH

P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE

July 15, 1992

E0708RG.3

To: Hawaii State Emergency Response Commission Members

From: Rhonda Goyke, Coordinator *RG*  
Hawaii State Emergency Response Commission

Subject: Parking for July 27, 1992 HSERC Meeting

As you are aware, the next meeting of the Hawaii State Emergency Response Commission is scheduled for Monday July 27, 1992, 9:00 a.m. to 12:00 noon. The meeting will be held at the Department of Health's Kinau Hale Board Room, 1st Floor, 1250 Punchbowl Street.

We have procured Special Function Parking Permits for Commission members from the Department of Accounting and General Services. The permit is for Lot V located behind Kinau Hale. The entrance to the parking lot is on Punchbowl Street. Please bring the attached parking permit with you to the meeting and be sure to follow the instructions on the permit, "prominently display, face up, on your dashboard, on the driver's side" of your car.

We look forward to seeing you at the meeting.

RG:rg

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
Automotive Management Division  
Parking Control Branch

Date July 8, 1992

MEMORANDUM

TO: DAGS, Automotive Management Division  
Parking Control Branch PHONE: 586-0344 FAX: 586-0354  
FROM: Health/Env. Hlth Admin./Haz. Eval. & Emerg. Resp. FAX: 586-4444  
DEPT., DIVISION  
SUBJECT: REQUEST FOR SPECIAL FUNCTION PARKING  
PURPOSE: Hawaii State Emergency Response Commission Meeting

No. of Permits Requested: 20 Preferred Parking Lot: 1

Date(s) of Function: July 27, 1992 Time: 9:00am to 12:00pm

Place of Function: 1250 Punchbowl St.  
(address)

Participants Arriving From: Outer Island and Honolulu

Contact Person: Alvina Mar & Rhonda Goyke Phone No. 586-4249

SUBMITTED BY: Steven Armann, Manager HEER Office

APPROVED FOR DIRECTOR: Greg Nakamoto

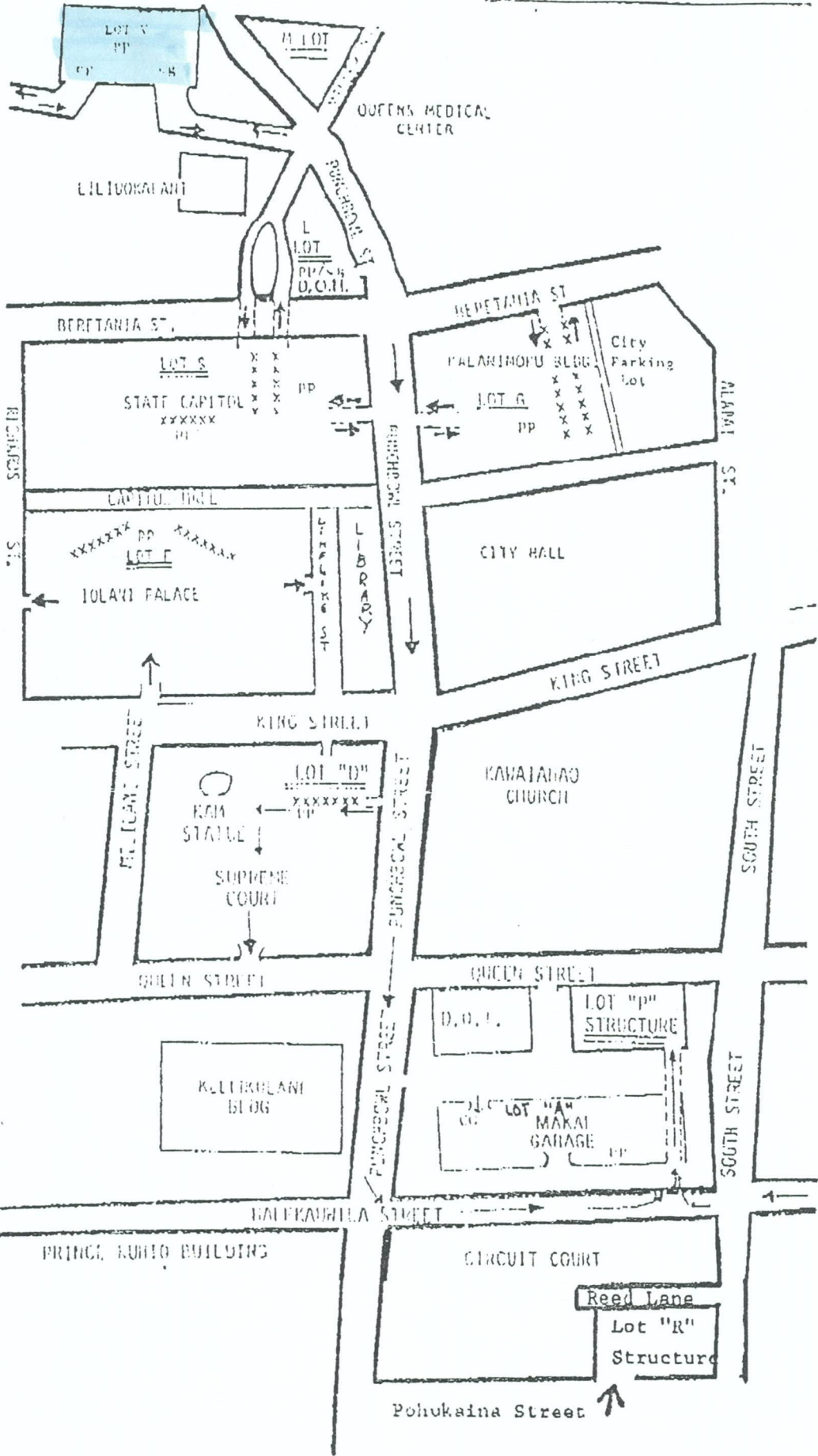
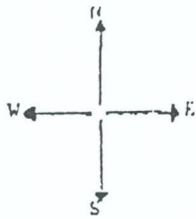
- NOTE:
- 1) SUBMIT ONE REQUEST FOR EACH FUNCTION.
  - 2) REQUESTS MUST BE RECEIVED BY PARKING CONTROL AT LEAST THREE (3) WORKING DAYS, BUT NO MORE THAN 30 DAYS, PRIOR TO THE DATE OF THE FUNCTION.
  - 3) PARTICIPANTS WHO ARE ISSUED SPECIAL FUNCTION PERMITS MUST BE ARRIVING FROM LOCATIONS OUTSIDE THE STATE CAPITAL COMPLEX.
  - 4) THIS SPECIAL FUNCTION PERMIT SHALL BE PROMINENTLY DISPLAYED, FACE UP, ON YOUR DASHBOARD ON THE DRIVER'S SIDE.

PARKING CONTROL USE ONLY

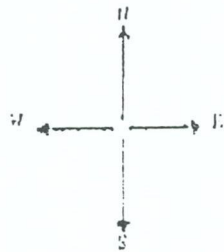
DATE RECD: JUL 10 1992 APPROVED BY: S LOT AUTHORIZED: 20-V/Public

No. of Validated Tickets: \_\_\_\_\_





UPPER  
x - Parking Meters  
= Underground  
pp - Public Parking  
cc - Controlled City



LOWER  
x - Parking Meters  
PP - Public parking  
CC - Controlled City

JOHN WAIHEE  
GOVERNOR OF HAWAII



JOHN C. LEWIN, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH

P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:

FIVE WATERFRONT PLAZA, SUITE 250  
500 ALA MOANA BOULEVARD  
HONOLULU, HI 96813  
FAX # (808) 586-4370

FACSIMILE REQUEST AND COVER SHEET  
(Use Black or Blue Ink Only)

DATE: 7/24/92 No. of pages (Incl. cover sheet): 2

TO: LARRY LAU

Office/Phone/Mail stop: 587-3050

FAX 587-3077

FROM: RHONDA GOYLE

Office/Phone/Mail stop: DOH/HEER

SUBJECT/MESSAGE: Brief statement of state (HSERC)  
+ Local (LEPC) responsibilities.

SIGNATURE OF SENDER: Rhonda Goyle

NOTE: If this transmittal was incomplete or illegible, please call the sender's office.

Rev. 7/29/91

## STATE AND LOCAL ROLES UNDER SARA TITLE III

<u>SECTION OF LAW</u>		<u>RESPONSIBILITY</u>	
Sec 301	(a)	Establish State Commission	State
		Appoint local emergency planning committees	State
		Supervise & coordinate LEPC activities	State
		Establish public request procedures	State
		Designate information coordinator	State
	(b)	Establish Emergency Planning Districts	State
	(c)	Appoint committees/assure minimum representation	State
		Committee to appoint chairperson	Local
		Establish committee rules	Local
		Establish committee procedures for public requests	Local
Designate committee information coordinator		Local	
Sec 302	(b)(2)	Designate and notify additionally covered facilities	State
	(d)	Notify EPA of covered facilities	State
Sec 303	(a)	Complete emergency plan	Local
	(b)	Make recommendations on resources required to develop, implement and exercise plan	Local
	(e)	Review and make recommendations on plan(s)	State
Sec 311	(c)(1)	Provide MSDS upon request	Local
Sec 312	(e)	Receive Tier II information	State & Local
Sec 313	(a)	Receive toxic chemical release forms	State
	(b)(2)	Discretionary application to additional facilities	State
	(e)	Petition for additional or deletion of listed chemicals	State

CONTINGENCY PLAN  
HSERC ASSISTANCE TO HAWAII COUNTY LEPC

- Develop workshop/seminar for LEPC orientation. 2 wks
- ~~DEVELOP LEPC OPERATIONS MANUAL~~ 8 hrs
- Conduct orientation workshop for LEPC members and interested parties. 8 hrs
- Draft letter and do mail out to all Hawaii County LEPCs outlining their responsibilities and duties as well as meeting information. 16 hrs
- Organize LEPC meeting (agenda, logistics, etc). 2 wks
- Attend and assist at LEPC meeting 16 hrs
- Visit Hawaii County CD and Hawaii FD to become familiar with the resources available. 8 hrs
- Organize and facilitate meeting with DOH, HCD and HFD regarding possible non-compliers and possible compliance campaign. 32 hrs
- Work with HCD personnel to update the Hawaii County Emergency Response Plan. 4 wks
- Draft letters to elicit cooperation from facility who are required to prepare emergency response plans. Request copies of existing plans. 16 hrs
- Assist HCD in the completion of hazard analysis required to complete the emergency response plan. 5 wks
- Assist LEPC in establishing committee rules 2 wks
- Assist LEPC in establishing procedures for public requests 8 hrs
- Encourage the LEPC to designate Committee information coordinator 8 hrs
- Assist LEPC in establishing recommendations regarding resources required to develop, implement and exercise plan 2 wks

*use same units*

TOTAL ESTIMATED TIME REQUIRED 20 wks

## SARA TITLE III

CURRENT STATUS:  
HAWAII COUNTY LEPC  
ROLES & RESPONSIBILITIES  
WITH WORKLOAD ANALYSIS

<u>MANDATORY LOCAL OR LEPC RESPONSIBILITIES</u>	<u>STATUS</u>	<u>FTE</u>
1. Committee to Appoint Chair Hawaii	Accomplished	0
2. Initial Emergency Plan Hawaii	Accomplished	0
3. Receive Tier II Information Hawaii	Accomplished	1 wk
4. Provide MSDS upon request Hawaii	On Going	1 wk
5. Annual LEPC meeting Hawaii	To Do	2 wks
6. Annual Review & Update of Emerg. Plan A. General Requirements		
(1) Designate a community emergency coordinator	To Do	1 hr
(2) Revise plan annually	To Do	2 wks
(3) Identify community & facility equip. & person(s) responsible	To Do	1 wk
(4) Emergency release notification procedures	Accomplished	0
(5) Determine methods & procedures to be followed by:		
(a) facility owners & operators	Accomplished On Tier II's	0
(b) local emergency response personnel	Accomplished	0
(c) medical personnel	To Do	?
(6) Training:		State
(a) local emergency response personnel	On Going	.3 FTE
(b) medical personnel	To Do	??
(7) Emerg. exercises, methods & schedules	To Do	1 hr
Total LEPC time required for general emergency planning Hawaii	3 wks	.08 FTE

B. Hazard Analysis Requirements - Note: This is the actual number of EHS facilities reporting to date (per FD & CD update 2/14/92). Enforcement has not been a priority for any of the counties except Maui.

(1) Identify

(a) Facilities	Accomplished	0
(b) Routes - (1 hr/EHS facility)		
Oahu 236	85% complete	1 wk
Maui 45	To Do	1 wk
Kauai 75	To Do	2 wks
Hawaii 12	To Do	12 hrs
(c) Additional facilities contributing to risk &/or subject to risk due to proximity (1 hr/fac)		
Oahu 236	85% complete	1 wk
Maui 45	To Do	1 wk
Kauai 75	To Do	2 wks
Hawaii 12	To Do	12 hrs
(2) Designate facility emergency coordinator	Accomplished	On Tier II's
(3) Determine release detection & area or population likely to be affected (8 hrs/fac.)		
Oahu 236 fac	85 % complete	7 wks
Maui 45	To Do (started)	9 wks
Kauai 75	To Do	15 wks
Hawaii 12	To Do	2.5 wks
(4) Evacuation plans (2 hrs/fac)		
Oahu 236	85 % complete	1.8 wks
Maui 45	To Do	2.5 wks
Kauai 75	To Do	3.8 wks
Hawaii 12	To Do	.5 wks

Time required for Hazard Analyses (facilities could be required to provide this information to the LEPC)

Oahu	11 wks	.3 FTE
Maui	14 wks	.35 FTE
Kauai	23 wks	.6 FTE
Hawaii	4 wks	.1 FTE

7. Establish Committee Rules Hawaii	To Do	3 wks
8. Establish Procedures for Public Request Hawaii	To Do	1 wk
9. Designate Committee Information Coordinator Hawaii	To Do	1 hr
10. Make Recommendations on Resources Required to Develop, Implement and Exercise Plan		
Oahu	To Do	1 wk
Maui	To Do	1 wk
Kauai	50 % Complete	.5 wk
Hawaii	To Do	1 wk

**ESTIMATED YEARLY TIME REQUIRED FOR MANDATORY LEPC REQUIREMENTS**  
 (based on 200 dy/yr=FTE)

WITH Hazard Analyses  
 Hawaii 16 wks .4 FTE

WITHOUT Hazard Analyses  
 Hawaii 12 wks .3 FTE

**OPTIONAL LEPC RESPONSIBILITIES** **STATUS** **FTE**

1. Input Tier II Data according to Title III Data Management Plan  
 Hawaii FD Partial 4 wks

2. Upgrade computer system to CAMEO 3.0  
 Hawaii FD To Do 2 wks  
 CD To Do 2 wks

3. Emergency Plan Exercise (emphasis on plan)  
 Hawaii Partial 2 wks

4. LEPC meeting every 6 months  
 Hawaii To Do 2 wks

**ESTIMATED YEARLY TIME REQUIRED FOR  
 OPTIONAL LEPC RESPONSIBILITIES**  
 Hawaii 12 wks .3 FTE

**TOTAL LEPC FTE REQUIRED, without Haz. Anal.**  
 Hawaii 24 wks .6 FTE

**TOTAL LEPC FTE REQUIRED, including Haz. Anal.**  
 Hawaii 28 wks .7 FTE

DRAFT

*OK with revisions noted - MJ*  
GOALS&OBJ.RG3

HAWAII STATE EMERGENCY RESPONSE COMMISSION  
OPERATIONS PLAN

May 1992

**MISSION:** TO ESTABLISH EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW PROGRAMS IN HAWAII. THROUGH ADEQUATE PREPARATION AND PLANNING, THESE PROGRAMS WILL PREVENT AND MITIGATE ~~THE OUTCOME OF POSSIBLE CATASTROPHIC~~ RELEASES OF OIL AND HAZARDOUS SUBSTANCES IN HAWAII.

**GOAL:** <sup>20</sup>  
^ PROVIDE STATE LEADERSHIP AND SUPPORT TO PLAN FOR, PREPARE FOR & PREVENT OIL AND HAZARDOUS SUBSTANCE EMERGENCIES IN THE STATE OF HAWAII.

**OBJECTIVES:** ?

1. EPCRA COMPLIANCE

Establish a comprehensive state program for emergency planning and community right-to-know <sup>Act (EPCRA)</sup> requirements in accordance with the mandates of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and all other applicable laws or regulations.

2. PROGRAMMATIC ISSUES

~~Establish~~  
~~Create a fee system to support EPCRA activities by establishing reporting fees~~



~~to be paid by facilities regulated under SARA Title III.~~ <sup>a funding mechanism</sup> Establish and maintain capable personnel at the State and County levels to implement the mandates of EPCRA and the emergency planning and community right-to-know programs developed by the HSERC.

3. DATA MANAGEMENT

Establish and maintain an effective, well coordinated State-wide data management system for Title III Emergency Planning and Community Right-to-Know information.

4. SUPPORT AND GUIDANCE

Provide guidance and assistance to the LEPCs, as needed, ~~and as requested.~~  
~~Annually,~~ <sup>on an annual basis</sup> provide critical review and coordination of LEPC emergency response plans. Maintain the Hawaii State Oil and Hazardous Substance Emergency Response Plan. Ensure exercises are conducted to adequately evaluate and practice implementing the emergency response plans.

5. TRAINING AND PREPAREDNESS

<sup>Assist in revising</sup> ~~Ensure adequate~~ guidance and resources are available and utilized to train appropriate personnel. <sup>Evaluate the adequacy of</sup> ~~Ensure that adequate~~ equipment is available for oil and hazardous materials emergencies, utilizing industry as well as all other available resources.

6. OUTREACH

Establish and maintain a public outreach program to inform the community of the possible hazards in their community. Foster community involvement in local program planning and operations. Encourage industry to join the State in an effort to prepare for and prevent oil and hazardous materials emergencies.

7. EPCRA ENFORCEMENT

In cooperation and coordination with EPA, develop an effective enforcement program to compel responsible parties to comply with the mandates of EPCRA.

92-180

*Revised  
copy sent  
1/82*

DRAFT

GOALS&OBJ.RG3

# HAWAII STATE EMERGENCY RESPONSE COMMISSION OPERATIONS PLAN

May 1992

**MISSION:** TO ESTABLISH EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW PROGRAMS IN HAWAII. THROUGH ADEQUATE PREPARATION AND PLANNING, THESE PROGRAMS WILL PREVENT AND MITIGATE THE OUTCOME OF POSSIBLE CATASTROPHIC RELEASES OF OIL AND HAZARDOUS SUBSTANCES IN HAWAII.

**GOAL:** PROVIDE STATE LEADERSHIP AND SUPPORT TO PLAN FOR, PREPARE FOR & PREVENT OIL AND HAZARDOUS SUBSTANCE EMERGENCIES IN THE STATE OF HAWAII.

**OBJECTIVES:**

1. EPCRA COMPLIANCE

Establish a comprehensive state program for emergency planning and community right-to-know requirements in accordance with the mandates of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and all other applicable laws or regulations.

2. PROGRAMMATIC ISSUES

Establish a fee system <sup>to support EPCRA activities</sup> by <sup>imposing</sup> reporting fees <sup>to be paid by</sup> on the regulated <sup>facilities</sup> community

under SARA Title III. Establish and maintain capable personnel at the State and County levels to implement the mandates of EPCRA and the emergency planning and community right-to-know programs developed by the HSERC.

3. DATA MANAGEMENT

Establish and maintain an effective, well coordinated State-wide data management system for Title III Emergency Planning and Community Right-to-Know information.

4. SUPPORT AND GUIDANCE

Provide guidance and assistance to the LEPCs as needed and as requested. Annually, provide critical review and coordination of LEPC emergency response plans. Maintain the Hawaii State Oil and Hazardous Substance Emergency Response Plan. Ensure exercises are conducted to adequately evaluate and practice implementing the emergency response plans.

5. *Training and*  
PREPAREDNESS

Ensure adequate guidance and resources are available and utilized to train appropriate personnel. Ensure that adequate equipment is available for oil and hazardous materials emergencies, utilizing industry as well as all other available resources.

6. OUTREACH

Establish and maintain a public outreach program to inform the community of the possible hazards in their community. Foster community involvement in local program planning and operations. Encourage industry to join the State in an effort to prepare for and prevent oil and hazardous materials emergencies.

7. EPCRA ENFORCEMENT

*in cooperation + coordination w/ EPCRA*  
Develop an effective enforcement program to compel responsible parties to comply with the mandates of EPCRA.



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378  
HONOLULU, HAWAII 96801

In reply, please refer to:  
HEER OFFICE  
MTG10.AG-RG3

**HAWAII STATE EMERGENCY RESPONSE COMMISSION (HSERC)  
Meeting #10**

Monday July 27, 1992  
9:00 a.m. - 12:00 noon

Department of Health's  
Kinau Hale Board Room, 1st Floor

1250 Punchbowl Street

**AGENDA**

- I. Introductions
  - A. Opening Remarks
  - B. Discussion/Approval of Minutes from HSERC Meeting #9
- II. Update by the Attorney Generals Office
- III. Distribution of Hawaii's Oil and HAZMAT Operations Plan
- IV. Report on Other States' Programs
- V. Available Grants
- VI. Data Management Advisory Committee - Preliminary Report
- VII. HSERC Goals & Objectives
  - A. Input on Draft Goals & Objectives
  - B. Finalize Goals & Objectives of the HSERC
- VIII. Schedule Next HSERC Meeting (#11)