

HAWAII STATE EMERGENCY RESPONSE COMMISSION
MEETING #16

MAY 13, 1992
9:00 a.m.- 12:00 noon

DEPARTMENT OF HEALTH
KINAU HALE 1ST FLOOR CONFERENCE ROOM

MEMBERS PRESENT

<input checked="" type="checkbox"/> John C. Lewin, Director DOH	<input type="checkbox"/> Bruce S. Anderson, DDEH DOH
<input checked="" type="checkbox"/> Major General Richardson Adjutant General, DOD or Representative (<u>Rag PRICE</u>) ✓	<input type="checkbox"/> Jiggie Hommon , Manager ^{Rheta Thielen} American Red Cross or Representative (<u>Peter J Hirai</u>) PETER HIRAI
<input checked="" type="checkbox"/> Yukio Kitagawa, Chairman BOA or Representative (<u>Donald Y. Kim</u>) ✓	<input checked="" type="checkbox"/> Keith Ahue, Chairman BLNR or Representative (<u>Yingfan Xu (DOWALD)</u>) ✓
<input checked="" type="checkbox"/> Dayton Nakanelua, Director DLIR or Representative (<u>Russell Charlton</u>) ✓	<input checked="" type="checkbox"/> Rex D. Johnson, Director, DOT or Representative (<u>RALPH MOORE</u>) ✓
<input checked="" type="checkbox"/> Mufi Hannemann, Director DBEDT or Representative (<u>James Bae</u>) ✓	<input checked="" type="checkbox"/> George Kekuna, LEPC Coordinator or Representative (<u>Eugene Lee</u>) ✓
<input type="checkbox"/> Brian Choy, Director OEQC or Representative (_____)	<input type="checkbox"/> Sel Menor, LEPC Co-Chair Maui CD or Representative (_____)
<input type="checkbox"/> B. Z. Siegel, Dean School of Public Health, UH or Representative (_____)	<input checked="" type="checkbox"/> ^{ci/} Clifford Ikeda, LEPC Co-Chair Kauai CD or Representative (_____)
	<input checked="" type="checkbox"/> Harry Kim, LEPC Chair Hawaii CD or Representative (_____)

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

Hawaii State Emergency Response Commission
Meeting #16

Thursday, May 13, 1993
9:00 am - 12:00 pm

Department of Health
Kinau Hale Boardroom, 1st Floor
1250 Punchbowl Street
Honolulu, Hawaii 96813

AGENDA

- I. Call to Order
 - A. Opening Remarks
 - B. Discussion/Approval of Minutes from HSERC Meeting #15
- II. Update by Attorney Generals Office
- III. Update Hawaii EPCRA Bill
- IV. Update HMTUSA Grant
- V. HIOSH - Training
- VI. LEPC Membership Representation
- VII. Other Business

For Approval

X

June 22, 1993

Draft Meeting Summary
HAWAII STATE EMERGENCY RESPONSE COMMISSION

Thursday, May 13, 1993
9:00 a.m. - 12:00 p.m.

Department of Health
Kinau Hale Board Room, 1st Floor
1250 Punchbowl Street
Honolulu, Hawaii 96814

HSERC Commission Members and Representatives

John C. Lewin, M.D., Chair, HSERC, DOH
Roy Price for Major General Richardson, DOD
Gerald Kinro for Yukio Kitagawa, BOA
Russell Charlton, for Dayton Nakanelua, DLIR
James Bac for Mufi Hannemann, DBEDT
Peter Hirai for Rheta Thielen, American Red Cross
Yingfan Xu for Keith Ahue, BLNR
Ralph Moore for Rex D. Johnson, DOT
Eugene Lee for Chris Takeno, Honolulu LEPC Coordinator
Clifford Ikeda, Kauai LEPC Co-Chair
Harry Kim, Hawaii LEPC Chair

Other Attenders

Blake Vance, Hawaii Sugar Planters Association
Mike Choy, Hawaiian Electric Company
Kathy Ho, Attorney Generals Office
Jay Sasan, Hawaii County Safety Office
Carter Davis, Honolulu Fire Department
Joseph Blackburn, Maui Fire Department
Laura Young, DOH, HEER
Rhonda Goyke, DOH, HEER
Steve Armann, DOH, HEER

- I. The Sixteenth Meeting of the Hawaii State Emergency Response Commission was called to order at 9:10 am, May 13, 1993.

Approval of Minutes

The draft summary of the Fifteenth Meeting of the HSERC were approved with no changes.

- II. Update by Attorney Generals Office

Three issue from HSERC meeting #15 were addressed by Kathy Ho. The first issue was the compensation for equipment used during a hazardous material emergency response. According to the Environment Response Law 128D(4)(c) there are two

modes to request compensation 1) Request compensation from the Director of Health and it is at the discretion of the Director to reimburse the responders for equipment used, decisions cannot be appealed. Under 128D(19) if the agency is ordered by the Director to clean up a chemical release and the request for compensation is denied, the decision may be appealed. Dr. Lewin stated that a DOH policy needs to be developed. Joe Blackburn's request for compensation for an incident that occurred on Maui was authorized.

The second issue pertained to representation of the LEPC by the Attorney Generals Office. As set forth in HB 1653 Section 5, Functions and Duties of the LEPC, if sued, a member may request assistance from the AG office if the LEPC member is within the scope of his duties and is acting in an official capacity. The request for representation will more than likely be granted. The final decision for each case is at the discretion of the Attorney General.

The third issue was enforcing EPCRA compliance. EPCRA has strict reporting requirements that can be enforced by the agency, statute provides for sanction, a citation system will be legislative, we will have to go back to the legislature to amend the statute.

III. Steve Armann update the HSERC on HB 1653. HEPCRA was passed by the legislature and is awaiting Governor Waihee's signature. There was little opposition to the bill. The \$100.00 filing fee will go into General Fund and at the next legislative session those funds can be requested to meet the general operating needs of the Hawaii Emergency Planning Community Right to Know Act. Dr. Lewin stated that we did have the option to ask for more funds than collected.

IV. HMTUSA Update

Roy Price announced that he did get a confirmation call for the HMTUSA grant on May 12, 1993. The contract was in the mail.

V. HIOSH Training

Russ Charlton gave overview of training and distributed the Title 12, DLIR, Chapter 99 Hazardous Waste Operations and Emergency Response. Focused on five sections: Purpose, Scope and Application, Definitions, Training, and Emergency Response to Hazardous Substance Releases by Employees.

Appendix E was reviewed for releases of hazardous substances in the work place, the three categorized included 1) releases that are clearly incidental 2) releases that may be incidental or require an emergency response depending on the circumstances and 3) releases that require and emergency response regardless of the circumstances.

Specialist employees 12-99-18(f) can include DOH employees that must show competency annually, should be advisors to county agencies, not incident responders.

Training Section 12-99-18 the five major categories of emergency responders were reviewed.

1. First responders awareness level
2. First responder operations level
3. Hazardous material technicians
4. Hazardous materials specialist
5. On-scene incident commander

~~HOSH~~ ^{OSHA} has a response team located in Salt Lake City. ✓

Refresher training

Post emergency response operation training requirements are very different from those described for responders, being more stringent as described in 12-99-17

For information on Training contact

Worker Training and Education Branch
Occupational Health and Technical Services
NIEHS, North Campus Building, Room 1810
Research Triangle Park, North Carolina 27709

Roy Price announced the following training courses

Hazardous Materials Contingency Planning
San Jose, CA June 28 - July 2, 1993

Western Fire Chief's Conference
Maui July 27 - 29, 1993

Chemistry of Hazardous Materials
Honolulu August 9 - 19, 1993

Hazardous Materials Technicians's Course
Honolulu October 4 - 15, 1993

Emergency Response to Hazardous Materials Incidents
Technician Level
Honolulu October 11 -15, 1993
Hilo October 18 - 22, 1993

Emergency Response to Hazardous Material Incidents
Honolulu, May 9- 13, 1994

Safety and Health Decision Making for Managers
Honolulu April 26 - 28, 1994

Civil Defense command post type exercise will be held in June to resolve hazmat items that occurred during Hurricane Iniki.

Ralph Moore asked if anyone is monitoring movement of infectious and hazardous waste. Some of the waste solids are reactive/ignitable when mixed or come in contact with water.

At this time DOT does not have control or adequate equipment to determine what is being transported in sealed containers. Dr. Lewin suggested John Harder join us at the next HSERC meeting and address this issue. Steve Armann stated that the Office Solid Waste Management was not in charge of transport.

Roy Price stated that many people or businesses don't know of regulations, mandates are passed with no resources to implement or educate those affected by them.

Harry Kim stated the Hawaii County Civil Defense continuously looks to HEER office for assistance. Steve Armann stated that the HEER Office will always respond to request for assistance from neighbor islands.

Ralph Moore described incident of an abandoned drum on freeway near Red Hill, since the drum was not leaking the fire department left the scene and did not remove the drum. DOT finally got two employees to move drum, DOT is still in possession of the drum. Ralph Moore stated that it was not clearly understood who has the responsibility for the drum removal but he took care of it. Harry Kim stated that the Incident Command system should have been implemented till drum removed. Who was responsible for it and follow-up. HEER Office would have hired a contractor for removal. Since many incidents involve DLNR and DOT they should be made aware of their responsibilities.

VI. LEPC Membership Representation

The lists for LEPC membership representation for Maui was received just before the meeting and contained only seven nominations. Dr. Lewin postponed any appointments until the list from the Island of Hawaii and Maui can be checked with EPCRA to determine if all requirements for LEPCs are being met with the nominations. Dr. Lewin also requested that lists from the Honolulu City and County LEPC and the County of Kauai present their LEPC membership list at the next HSERC meeting.

VII. Other Business

Announcement: Peter Hirai of The American Red Cross announced that Rheta Thielen, Director of Disaster Relief Services will be taking the place of Jiggie Hommon.

Roy Price asked about the possibility of HECO or one of the larger companies to sponsor a series of workshops on outer islands to review hazmat training and emergency response systems in place on the outer islands. Harry Kim also suggested approaching local Chambers of Commerce as sponsors.

VII. Meeting adjourned at 11:00 am

Respectfully Submitted

Laura L. Young
Environmental Health Specialist

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

August 31, 1993

Meeting Summary
HAWAII STATE EMERGENCY RESPONSE COMMISSION

Thursday, May 13, 1993
9:00 a.m. - 12:00 p.m.

Department of Health
Kinau Hale Board Room, 1st Floor
1250 Punchbowl Street
Honolulu, Hawaii 96814

HSERC Commission Members and Representatives

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Roy Price for Major General Richardson, DOD
Gerald Kinro for Yukio Kitagawa, BOA
Russell Charlton, for Dayton Nakanelua, DLIR
James Bac for Mufi Hannemann, DBEDT
Peter Hirai for Rheta Thielen, American Red Cross
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Ralph Moore for Rex D. Johnson, DOT
Eugene Lee for Chris Takeno, Honolulu LEPC Coordinator
Clifford Ikeda, Kauai LEPC Co-Chair
Harry Kim, Hawaii LEPC Chair

Other Attenders

Blake Vance, Hawaii Sugar Planters Association
Mike Choy, Hawaiian Electric Company
Kathy Ho, Attorney Generals Office
Jay Sasan, Hawaii County Safety Office
Carter Davis, Honolulu Fire Department
Joseph Blackburn, Maui Fire Department
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Rhonda Goyke, DOH, HEER
Steve Armann, DOH, HEER

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OSHA has a response team located in Salt Lake

Refresher training

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Honolulu October 4 - 15, 1993

Emergency Response to Hazardous Materials Incidents

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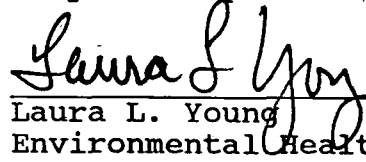
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VII. Meeting adjourned at 11:00 am

Respectfully Submitted

 8/31/93

Laura L. Young
Environmental Health Specialist

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

Hawaii State Emergency Response Commission
Meeting #16

Thursday, May 13, 1993
9:00 am - 12:00 pm

Department of Health
Kinau Hale Boardroom, 1st Floor
1250 Punchbowl Street
Honolulu, Hawaii 96813

AGENDA

- I. Call to Order
 - A. Opening Remarks
 - B. Discussion/Approval of Minutes from HSERC Meeting #15
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- V. HIOSH - Training
- VI. LEPC Membership Representation
- VII. Other Business

Brief
Dr. Lewin
Dr. Anderson

HAWAII STATE EMERGENCY RESPONSE COMMISSION
MEETING #16

Thursday May 13, 1993
9:00 am - 12:00 pm

AGENDA

- I. Call to Order
 - A. Opening Remarks
 - B. Discussion/Approval of Minutes from HSERC Meeting #15
- II. Update by Attorney Generals Office (Kathy Ho 30 minutes)
Dr. LEWIN TO INTRODUCE KATHY HO

At the last meeting of the HSERC questions were raised for the Attorney Generals Office to research. They included (1) reimbursements from the environmental response fund for equipment used for chemical emergency responses, (YES, BUT WE NEED TO DEVELOP DOH POLICY) (2) if the Attorney General office will represent the LEPC if requested, and (3) can an enforcement or citation system be implemented.

- III. Update on Hawaii EPCRA Bill (Steve Armann 30 minutes)
DR. LEWIN TO INTRODUCE STEVE ARMANN
- IV. Update HMTUSA Grant (Laura Young 5 minutes)
DR. LEWIN TO INTRODUCE LAURA YOUNG
- V. Training Requirements (Russ Charlton 1 hour)
DR. LEWIN TO INTRODUCE RUSS CHARLTON

Questions on appropriate levels of training for emergency responders and the agency responsible for providing training funds have been a recurring issue of the HSERC, Russ Charlton from the Department of

Labor and Industrial Relation will address these concerns.

VI. LEPC Membership Representation (Dr. Lewin 30 minutes)

Nominations for LEPC members were requested from the Mayors of the Island of Hawaii and Maui. We have received nominations from both Islands and we can now go through procedures for their appointment.

VII. Schedule Next HSERC Meeting #17

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

E0405ly.i1

April 22, 1993

To: The Hawaii State Emergency Response Commission Members

From: John C. Lewin, M.D. *John C. Lewin*
Director of Health

Subject: Notice for Hawaii State Emergency Response Commission
Meeting #16

This is to invite you to attend the next meeting of the Hawaii State Emergency Response Commission (HSERC) to be held on Thursday May 13, 1993, 9:00 a.m. to 12:00 p.m. The meeting will be held at the Kinau Hale, First Floor Board Room, at 1250 Punchbowl Street. Topics to be discussed include Hawaii EPCRA Bill and HSERC training requirements by Hawaii Occupational Safety and Health Branch.

Please find enclosed a copy of the HSERC Meeting #16 Agenda, Draft Meeting Summary from HSERC Meeting #15, and the Final Meeting Summary for HSERC Meeting #14. Parking permits near Kinau Hale have been requested for the commission members. We will be kept informed regarding the status of the permits. If you have any questions, please contact Laura Young at 586-4353.

Enclosure

1. Agenda
2. HSERC Draft Meeting Summary March 12, 1993
3. HSERC Final Meeting Summary December 11, 1992

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

April 7, 1993

E0404ly.h1

MEETING SUMMARY
HAWAII STATE EMERGENCY RESPONSE COMMISSION
MEETING #14

Friday December 11, 1992
9:00 a.m. - 12:00 noon

Department of Health's
Kinau Hale Board Room, 1st Floor
1250 Punchbowl Street

HSERC Commission Members and Representatives:

John C. Lewin, M.D., Chair, HSERC, DOH
Bruce S. Anderson, Ph.D., Vice Chair, HSERC, DOH
Roy Price for Major General Edward Richardson, DOD
Gerald Kinro for Yukio Kitagawa, BOA
Russell Charlton for Keith Ahue, DLIR
Tom Smyth for Mufi Hannemann, DBEDT
Ralph Moore for Rex Johnson, DOT
George Kekuna, Honolulu LEPC Representative
Clifford Ikeda, Kauai LEPC Representative
Sel Menor, Maui LEPC Representative
Harry Kim, Hawaii LEPC Representative
Rheta Thielen for Jiggie Hommon, Red Cross

Other Attendees:

Steven Armann, DOH
Rhonda Goyke, DOH
James Vinton, BHPPA
Robert Roberts, HSPA
Stacy Rogers, HCC/UH
Joseph Blackburn, Maui FD
Chris Takeno, C&C of Honolulu LEPC
James Bac, DBED/Energy

I. Call to Order

The 14th meeting of the HSERC was called to order by Lewin at 9:15 a.m.

A. Opening Remarks

Lewin stated the two main objectives of the meeting:

- 1) To come to consensus regarding the draft HEPCRA Bill; and
- 2) To discuss a model for a fee structure.

B. Discussion/Approval of Minutes from HSERC Meeting #13

Charlton noted that DOSH has been changed to HIOSH and the minutes should reflect the correct name.

Minutes were approved with change noted.

II. Update by the Attorney General's Office

Due to a scheduling conflict Kathy Ho is unable to join us. Lewin requested that a letter be drafted to Attorney General Marks requesting a Deputy AG at every HSERC meeting, stressing the importance of the Commission.

III. Draft State EPCRA BILL

A. Fee Structure Subcommittee

Armann explained that a fee subcommittee composed of: Roy Price, Chris Takeno, Sel Menor, Clifford Ikeda, Steve Armann, and Rhonda Goyke met on December 8th to discuss EPCRA fee options. The subcommittee recommendation was to make a fee system as simple as possible, both for the reporting facilities and for the HSERC. The recommendation is:

- 1) Stay away from sliding scales;
- 2) Initiate a straight flat fee that would be the same for everyone;
- 3) The fee recommended is \$100 per Tier II. Therefore, anyone that is required to submit a Tier II would pay an annual fee of \$100;
- 4) The fee would pay for a permit;

- 5) Provisions would be made for emergency provisions, such as someone who doesn't normally handle hazardous substances could get an emergency permit;
- 6) The money generated would be used for administration costs of the HSERC and LEPCs, public awareness, and training;
- 7) Purpose of a simple annual fee is to reduce administrative costs to DOH and to the facilities, keep recordkeeping simple; and
- 8) \$100 per Tier II would generate approximately \$50,000.

B. Open discussion

Anderson voiced concern over the inadequate funding that this recommendation would generate. \$50,000 would not be enough to support the staff that is needed for HSERC and LEPC support personnel. In addition, travel funds are needed for HSERC members and support staff.

Lewin suggested a compromise, the \$50,000 could support 1/2 FTE and pay for travel costs. Ideally there would be a support staff at the county level, but the current economy cannot support a large fee. However, we need to plan for the future and a small fund is a start at becoming self sufficient in the future.

Blackburn noted that the bill does not indicate where the LEPC will be administratively attached.

Anderson explained that the HSERC is an independent body with DOH providing administrative support, the LEPCs would be organized the same way.

Blackburn suggested to avoid confusion the administering agency should be spelled out in the bill.

Armann stated that the subcommittee discussed the problem of accountability at the county level. Therefor, it is the recommendation of the subcommittee that the language of the bill be changed back to reflect that the Mayor will appoint the LEPC members. Therefor, the Mayors would ultimately be responsible to ensure that the LEPC functions are carried out.

Anderson stated that if a 1/2 FTE is hired that would leave approximately \$20,000, which would be \$5,000 for each county which is not enough to develop ownership at the county level. How would the money be used.

Smyth suggested having one pool of money and the LEPCs could supply a budget and the HSERC could review and reward the money as appropriate, based on needs and request.

Price stated that is was refreshing to hear that the counties need help. The State economy is struggling due to Iniki and the recession. The EPCRA program is competing with other high priority programs. The rational behind a filing fee is that it would minimize the amount of administrative work associated with a fee system. There is no one to do the work, therefor the work load should be kept to a minimal amount. A state law would also allow fines to stay in the State instead of going to EPA. The EPCRA fund could grow slowly with the filing fees as well as any fines. The HSERC would continue to support the LEPCs as best as they can.

Price stated that the focus should be on the first responders, that is the county fire personnel, training and equipment for a Hazmat response team on each county.

Lewin inquired as to the equipment needed.

Blackburn stated that training was needed much more than equipment which could be charged to the spiller.

Kim stated that for Hawaii county he didn't know what the actual Hazmat need was. What is needed on Hawaii county is a clear division of responsibility. If a

geothermal incident is to occur it is not his responsibility except evacuation and warning. It is DOH responsibility.

Lewin stated that the \$50,000 is a small amount to do the job that needs to be done. Assessment and policy set up is the most important aspect of the program. Once a strong policy is in place the funding will follow. Set up adequate infrastructure to measure the success or failure of the program. It is understood that County/LEPC resources are inadequate but the State resources are inadequate as well. The fund generated by the fees could at least be used to hire the equivalent of a halftime to fulltime employee. This new person could be used as a link, by attending all LEPCs and the HSERC meetings.

Price clarified that he intended that the new staff person be used for compiling meeting minutes, xeroxing, etc. All these administrative tasks add up. We need to specify our intent and set priorities and make sure this is understood by the LEPCs. The fund will start out small, but once established the funds will grow as fines are initiated.

Armann stated that the way Chapter 128D was currently written most fines would go into the Revolving Fund. Therefore, fines for not reporting might be small.

Lewin queried the Commission as to the opinion of the HSERC regarding the need for EPCRA support staff. To be able to hire staff we need the fee structure.

Kinro stated that he supports a position to assist the HSERC and LEPCs, at least a 1/2 FTE.

Kim voiced the opinion that if the bill was left as is, it is essentially nonfunctioning. What is needed is to identify responsibilities of the various agencies involved. More help is needed than simply clerical assistance. What is needed is one agency to coordinate all activities.

Charlton noted that the funding issue at hand is a separate issue for the organizational issue that Kim is referring to.

Lewin stated that there is a need for a coordination body with regards to policy building and that this should be the function of the State.

Kim stated his preference for a single LEPC for the State.

Anderson emphasized the need for local plans.

Price explained that there are emergency operation plans in each county already. Specific requirements of EPCRA could be incorporated into the existing plans. EOPs are the responsibility of CD.

Kekuna agreed that the best place for the LEPC hazmat (EPCRA) EOP function was with CD. Kekuna also noted that EPCRA was becoming more visible and that enforcement should become our focus.

Blackburn noted that EOP are in place in each county, but facility specific information is missing. Someone must do the work.

Anderson stated that the LEPCs were set up to do the necessary work.

Lewin queried about the possibility of making the CD an advisory committee to the LEPC.

Kekuna clarified that there are specific requirements relating to advisory committees and how they are set up.

Kim could not support such a plan. Hawaii County can not handle additional responsibilities.

Charlton queried as to who the members of the "State LEPC" would be. Would the HSERC members be the LEPC members as well.

Lewin stated that if there was to be a "State LEPC" then the HSERC members would indeed do double duty as State LEPC members also.

Anderson stressed the need for local industry representatives in the LEPC as stated in EPCRA. EPCRA has very specific requirements as to who LEPC member should be.

Kim stated that at the county level an advisory board could be developed that could input and review the State LEPC plan.

Moore stated that his observation has been that the LEPC structure is the same as the CD structure. Therefore, if the Counties don't want an LEPC then perhaps we should just have an HSERC and have CD pick up the necessary responsibilities. This issue needs to be resolved once and for all and we should stop going back and forth with the same issue.

Charlton stated that funding was the real issue. The solution is to fund the program through the HEPCRA Bill, not to just push the responsibility around.

Lewin stated establishing LEPCs with an advisory function makes sense. Industry has an advisory function and the plans are centrally located. Acknowledge that the plans are HSERC responsibility. HSERC will work with CD to do the plans.

Blackburn stress the fact that the local plans must comply with EPCRA, including facility specific information and hazard analysis.

Takeno queried as to who would be held accountable for completing the plans.

Vinton stated that the commission should then be expanded to include representation from the public and the facilities impacted.

Anderson explained that the county advisory committees would provide that forum.

Lewin summarized the accomplishments of the meeting:

- 1) Planning function will be brought into the HSERC;
- 2) LEPC (advisory boards) will be appointed by the Mayor; and
- 3) Plans will be written in accordance with EPCRA.

Ikeda stressed opposition to this approach. He feels that it is important to involve non government people in the planning process. He has been trying to get away from the details of the plan, delegating the detailed work to the Fire Department. With this new organization the work load would be back on him.

Charlton stated that a fee system was needed that will fund the program that is required.

Lewin clarified that fees of \$500-600 per company would not get passed with the current economic situation.

Takeo stressed the point that if the responsibility of the Plans are taken away from the LEPC, there is no motivation for the LEPC to meet.

Lewin stated that the vested concern of industry would be the motivating factor.

Kim made the motion to go with the \$100 filing fee,

Davis queried as to the exemption of government agencies.

Lewin stated that clearly government would not be exempt.

Blackburn stated that Maui had planned to introduce a county fee that would fund enforcement. He queried as to the possibility of these facilities being exempt from the State filing fee. It would be unfair to tax Maui facilities twice.

Lewin suggested that the county fee be reduced by the amount paid to the State, therefore alleviating double fees.

Lewin reminded the Commission that the motion was on the floor to accept the \$100 filing fee per Tier II.

Motion Passed

Thielen stressed concern that the purpose of the meeting, to finalize the draft bill, was not going to be met. The bill is worded such that it is very general and the decision made today do not need to affect the wording of the bill. The motion was made to adopt the bill as written, work assignments can be adjusted later.

Kinro seconded the motion.

Amendments to the motion:

- 1) Bill should be changed to reflect that the Mayor are to appoint LEPC members;
- 2) \$100 filing fee will be placed in bill;
- 3) Page 3, line 25, change motor vehicle to motor carrier, Kinro opposed this motion amendment;
- 4) Page 4, definition of "Release" will be changed to mimic 128D;
- 5) Page 6, line 2, change adjutant general to "director of the department of defense";
- 6) Page 7, line 3, add "staff support";
- 7) Page 10(12) add "annual" update;
- 8) Page 12, line 10, change to read "With support from the HSERC local emergence response plans shall be submitted to..."

Motion to adopt the bill with the above amendments was passed.

Lewin commented that the changes would be reflected in a revised copy of the bill and sent out to all members.

Kim requested that the subcommittee review the revisions one last time before the bill becomes final.

V. Schedule Next HSERC Meeting (#15)

The next HSERC meeting was tentatively set for the end of February 1993, if needed to review or revise the HEPCRA Bill .

The motion was made to adjourn the meeting at 12:05 p.m.

The motion was passed.

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

Respectfully submitted,

Rhonda K. Gojke 5/7/93
RHONDA K. GOYKE Date

TITLE 12 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8 DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

CHAPTER 99 HAZARDOUS WASTE OPERATIONS AND
EMERGENCY RESPONSE

§12-99-1	Purpose
§12-99-2	Scope and application
§12-99-3	Definitions
§12-99-4	Safety and health program
§12-99-5	Site characterization and analysis
§12-99-6	Site control
§12-99-7	Training
§12-99-8	Medical surveillance
§12-99-9	Engineering controls, work practices, and personal protective equipment for employee protection
§12-99-10	Monitoring
§12-99-11	Informational programs
§12-99-12	Handling drums and containers
§12-99-13	Decontamination
§12-99-14	Emergency response by employees at uncontrolled hazardous waste sites
§12-99-15	Illumination
§12-99-16	Sanitation at temporary workplaces
§12-99-17	Certain operations conducted under the Resource Conservation and Recovery Act of 1976 (RCRA)
§12-99-18	Emergency response to hazardous substance releases by employees not previously covered
§12-99-19	New technology programs
§12-99-20	Appendices

~~§12-99-1. Purpose.~~ This chapter shall cover hazardous waste clean-up operations at emergency response sites and those sites designated by state or local governments. It will also cover the hazardous waste operations, such as: storage, disposal, or treatment of hazardous waste. [Eff. 11/24/88; comp 3/22/91] (Auth: HRS §396-4) (Imp: HRS §396-4)

§12-99-2 Scope and application. (a) Scope. This chapter covers the following operations, unless the employer can demonstrate that the operation does not involve employee exposure or the reasonable possibility for employee exposure to safety or health hazards:

- (1) Clean-up operations required by a governmental body, whether Federal, state, local or others involving hazardous substances that are conducted at uncontrolled hazardous waste sites (including, but not limited to, the EPA's National Priority Site List (NPL), state priority site lists, sites recommended for the EPA NPL, and initial investigations of government identified sites which are conducted before the presence or absence of hazardous substances have been ascertained);
- (2) Corrective actions involving clean-up operations at sites covered by the Resource Conservation and Recovery Act of 1976 (RCRA) as amended (42 U.S.C. 6901 et seq.);
- (3) Voluntary clean-up operations at sites recognized by Federal, state, local or other governmental bodies as uncontrolled hazardous waste sites;
- (4) Operations involving hazardous wastes that are conducted at treatment, storage, and disposal (TSD) facilities regulated by 40 CFR Parts 264 and 265 pursuant to RCRA; or by agencies under agreement with E.P.A. to implement RCRA regulations; and
- (5) Emergency response operations for releases of, or substantial threats of releases of, hazardous substances without regard to the location of the hazard.

(b) Application.

- (1) All requirements of Parts 1, 2, 3, and 8, of title 12 Hawaii Occupational Safety and Health Administrative Rules and Standards, apply pursuant to their terms to hazardous waste operations whether covered by this chapter or not. If there is a conflict or overlap, the provision more protective of employee safety and health shall apply.
- (2) Hazardous substance clean-up operations within the scope of subsections (a)(1) through (a)(3) above, must comply with all sections of this chapter except sections 12-99-17 and 12-99-18.
- (3) Operations within the scope of subsection (a)(4) above must comply only with the requirements of section 12-99-17.

Notes and Exceptions:

- (A) All provisions of section 12-99-17 cover any treatment, storage, or disposal (TSD) operation regulated by 40 CFR parts 264 and 265 or by state law authorized under RCRA, and required to have a permit or interim status from EPA pursuant to 40 CFR 270.1 or from a state agency pursuant to RCRA.

§12-99-3 Definitions. As used in this chapter:

"Buddy system" means a system of organizing employees into work groups in such a manner that each employee of the work group is designated to be observed by at least one other employee in the work group. The purpose of the buddy system is to provide rapid assistance to employees in the event of an emergency.

"Clean-up operation" means an operation where hazardous substances are removed, contained, incinerated, neutralized, stabilized, cleaned-up, or in any other manner processed or handled with the ultimate goal of making the site safer for people or the environment.

"Decontamination" means the removal of hazardous substances from employees and their equipment to the extent necessary to avoid the occurrence of foreseeable adverse health effects.

"Emergency response" means a coordinated response effort by employees from outside the immediate release area or by outside responders (e.g., mutual aid groups, local fire departments, etc.) to an occurrence which results, or is likely to result, in an uncontrolled release of a hazardous substance. Responses to incidental releases that can be absorbed, neutralized, or otherwise controlled at the time of release by employees in the immediate release area are not considered to be "emergency responses" within the scope of this chapter. Responses to releases of hazardous substances where the concentration of hazardous substance is below the established permissible exposure levels are not considered to be emergency responses.

"Facility" means:

- (1) Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, storage container, motor vehicle, rolling stock, or aircraft; or
- (2) Any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located, but does not include any consumer product in consumer use or any water-borne vessel.

"Hazardous materials response (HAZMAT) team" means an organized group of employees, designated by the employer, who are expected to:

- (1) Perform work to handle and control actual or potential leaks or spills of hazardous substances requiring possible close approach to the substance;
- (2) Perform responses to releases or potential releases of hazardous substances for the purpose of control or stabilization of the incident. A HAZMAT team is not a fire brigade nor is a typical fire brigade a HAZMAT team. A HAZMAT team, however, may be a separate component of a fire brigade or fire department; and
- (3) Use and select chemical protective clothing.

"Hazardous substance" means any substance designated or listed under (1) through (4) below, exposure to which results or may result in adverse effects on the health or safety of employees:

- (1) Any substance defined under section 101(14) of CERCLA;
 - (2) Any biological agent and other disease-causing agent which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any person, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations in such persons or their offspring;
 - (3) Any substance listed by the U.S. Department of Transportation as hazardous materials under 49 CFR 172.101 and appendices; and
 - (4) Hazardous waste as defined in this subsection.
- "Hazardous waste" means:
- (1) A waste or combination of wastes as defined in 40 CFR 261.3; or
 - (2) Those substances defined as hazardous waste in 49 CFR 171.8.

"Hazardous waste operation" means any operation involving employee exposure to hazardous wastes, hazardous substances, or any combination of these substances.

"Hazardous waste site" or "Site" means any facility or location within the scope of this chapter at which hazardous waste operations take place.

"Health hazard" means a chemical, mixture of chemicals, or a pathogen for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principals that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes. It also includes stress due to temperature extremes. Further definition of the terms used above can be found in appendix A to chapter 12-203.

"IDLH" or "Immediately Dangerous to Life or Health" means an atmospheric concentration of any toxic, corrosive, or asphyxiant substance that poses an immediate threat to life or may cause irreversible or delayed adverse health effects or may interfere with an individual's ability to escape from a dangerous atmosphere.

"Immediate severe health effects" means any acute clinical sign or symptom of a serious, exposure-related reaction revealed within 72 hours after exposure to a hazardous substance.

"Oxygen deficiency" means that concentration of oxygen by volume below which air supplying respiratory protection must be provided. It exists in atmospheres where the percentage of oxygen by volume is less than 19.5 per cent oxygen.

"Permissible Exposure Limit (PEL)" means the exposure, inhalation, or dermal permissible exposure limit specified in section 12-202-4.02.

"Post emergency response" means that portion of an emergency response performed after the immediate threat of a release has been stabilized or eliminated and clean-up of the site has begun. If post emergency response is performed by an employer's own employees who were part of the initial emergency response, it is considered to be part of the initial response and not post emergency response. However, if a group of an employer's own employees, separate from the group providing initial response, performs the clean-up operation, then the separate group of employees would be considered to be performing post-emergency response and subject to section 12-99-18(1)(1).

"Published exposure limit" means the inhalation or dermal permissible exposure limit (PEL) specified in section 12-202-4.02, or if none is specified, the exposure limits in "NIOSH Recommendations for Occupational Health Standards" dated September 1986 are incorporated by reference; if neither of the above is specified, the standards specified by the American Conference of Governmental Industrial Hygienists in its publication "Threshold Limit Values and Biological Exposure Indices for 1986-87" dated 1987 are incorporated by reference.

"Qualified person" means a person with specific training, knowledge, and experience in the area for which the person has responsibility and the authority to control.

"Site safety and health supervisor (or official)" means the individual located on a hazardous waste site who is responsible to the employer and has the authority and knowledge necessary to implement the site safety and health plan and to verify compliance with applicable safety and health requirements.

"Small quantity generator" means a generator of hazardous wastes which in any calendar month generates no more than 1000 kilograms (2205 pounds) of hazardous waste in that month.

"Uncontrolled hazardous waste site" means an area identified as an uncontrolled hazardous waste site by a governmental body, whether Federal, state, local, or other where an accumulation of hazardous substance creates a threat to the health and safety of individuals or the environment, or both. Some sites are found on public lands, such as those created by former municipal, county, or state landfills where illegal or poorly managed waste disposal has taken place. Other sites are found on private property, often belonging to generators or former generators of hazardous waste. Examples of such sites include, but are not limited to, surface impoundments, landfills, dumps, and tank or drum farms. Normal operations at TSD sites are not covered by this definition. [Eff. 11/24/88; am and comp 3/22/91; am 6/8/92] (Auth: HRS §396-4) (Imp: HRS §396-4)

§12-99-7 Training. (a) General. All employees working on site (such as but not limited to equipment operators, general laborers and others), who may be exposed to hazardous substances, health hazards, or safety hazards, and their supervisors and management responsible for the site, shall receive training meeting the requirements of this section before they are permitted to engage in hazardous waste operations that could expose them to hazardous substances, safety, or health hazards, and they shall receive review training as specified in this subsection. Employees shall not be permitted to participate in or supervise field activities until they have been trained to a level required by their job function and responsibility.

(b) Elements to be covered. The training shall thoroughly cover the following:

- (1) Names of personnel and alternates responsible for site safety and health;
- (2) Safety, health, and other hazards present on the site;
- (3) Use of personal protective equipment;
- (4) Work practices by which the employee can minimize risks from hazards;
- (5) Safe use of engineering controls and equipment on the site;
- (6) Medical surveillance requirements including recognition of symptoms and signs which might indicate overexposure to hazards; and
- (7) The contents of the site safety and health plan set forth in section 12-99-4(d)(1).

(c) Initial training.

- (1) General site workers (such as equipment operators, general laborers, and supervisory personnel) engaged in hazardous substance removal or other activities which expose or potentially expose workers to hazardous substances and health hazards shall receive a minimum of 40 hours of instruction off the site, and a minimum of three days actual field experience under the direct supervision of a trained, experienced supervisor.
- (2) Workers on site only occasionally for a specific limited task such as, but not limited to, ground water monitoring, land surveying, or geophysical surveying, and who are unlikely to be exposed over permissible exposure limits and published exposure limits shall receive a minimum of 24 hours of instruction off site, and a minimum of one day actual field experience under the direct supervision of a trained, experienced supervisor.
- (3) Workers regularly on site who work in areas which have been monitored and fully characterized, indicating that exposures are under permissible exposure limits and published exposure limits where respirators are not necessary and the characterization indicates that there are no health hazards or the possibility of an emergency developing, shall receive a minimum of 24 hours of

instruction off the meanssite and the minimum of one day actual field experience under the direct supervision of a trained, experienced supervisor.

- (4) Workers with 24 hours of training who are covered by paragraphs (2) and (3) above, and who become general site workers or who are required to wear respirators, shall have the additional 16 hours and two days of training necessary to total the training specified in paragraph (1) above.

(d) Management and supervisor training. On-site management and supervisors ~~directly responsible for, or who supervise~~ employees engaged in, hazardous waste operations shall receive the following training:

- (1) Forty hours initial training;
 (2) Three days of supervised field experience (the training may be reduced in paragraphs (1) and (2) above, to 24 hours, and one day, if the only area of their responsibility is employees covered by subsection (c)(2) and (c)(3) above.); and

- (3) At least 8 additional hours of specialized training at the time of job assignment on such topics as, but not limited to, the employer's safety and health program and the associated employee training program, personal protective equipment program, spill containment program, and health hazard monitoring procedures and techniques.

(e) Qualifications for trainers. Trainers shall be qualified to instruct employees about the subject matter that is being presented in training. Such trainers shall have satisfactorily completed a training program for teaching the subjects they are expected to teach, or they shall have the academic credentials and instructional experience necessary for teaching the subjects. Instructors shall demonstrate competent instructional skills and knowledge of the applicable subject matter.

(f) Training certification. Employees and supervisors that have received and successfully completed the training and field experience specified in subsections (c) through (e) above shall be certified by their instructor or the head instructor and trained supervisor as having completed the necessary training. A written certificate shall be given to each person so certified. Any person who has not been so certified or who has not met the requirements of subsection (i) below shall be prohibited from engaging in hazardous waste operations.

(g) Emergency response. Employees who are assigned to respond to hazardous emergency situations at hazardous waste clean-up sites that may expose them to hazardous substances shall be trained in how to respond to expected emergencies.

(h) Refresher training. Employees specified in subsection (b) above, and managers and supervisors specified in subsection (e) above, shall receive eight hours of refresher training annually on the items specified in subsections (b) and (f) above and other relevant topics.

§12-99-7

(1) Equivalent training. Employers who can show by documentation or certification that an employee's work experience or training, or both, has resulted in training equivalent to that training required in subsections (b) through (e) above shall not be required to provide the initial training requirements of those paragraphs to such employees and shall provide a copy of the certification or documentation to the employee upon request. However, certified employees or employees with equivalent training new to a site shall receive appropriate, site specific training before site entry and have appropriate supervised field experience at the new site. Equivalent training includes any academic training or the training that existing employees might have already received from actual hazardous waste site work experience. [Eff. 11/24/88; am and comp 3/22/91; am 6/8/92] (Auth: HRS §396-4) (Imp: HRS §396-4)

from Regions IX.

- b. The incident occurs in areas of federal jurisdiction, such as defense installations or United States waters, in which case, the appropriate federal agency will be the incident commander. (Section 105, CERCLA).

C. PHASE III - STABILIZATION AND CONTROL

Under most circumstances, incident command will remain at the county level during the stabilization and control phase of a response. If requested, an OSC from a state or federal agency may assume control. Several levels of government could become involved in this phase. The incident commander and OSCs are expected to work within a unified command structure.

D. PHASE IV - CLEANUP AND RESTORATION

Upon completion of stabilization and control measures, local emergency responders will return to normal duties. At this time, the county incident commander will turn command over to the state on-scene coordinator (normally DOH) who will assume incident command authority and direct cleanup and restoration. County agencies may need or choose to remain involved.

1. Cleanup and restoration activities include:
 - a. Compliance with cleanup standards;
 - b. Restoration of environment and site;
 - c. Investigation of cause;
 - d. Assessment of health and environmental impact;
 - e. Enforcement actions;
 - f. Cost recovery and documentation; and
 - g. Mitigation actions to be taken.

40 hours.

E. PHASE V - DOCUMENTATION AND COST RECOVERY

1. The On-Scene Coordinators (OSCs) are responsible for proper documentation to support all actions taken when responding to incidents involving oil discharges or hazardous substance releases. Documentation should be

§12-99-18 Emergency response to hazardous substance releases by employees not previously covered. (a) This section covers employers whose employees are engaged in emergency response no matter where it occurs except that it does not cover employees engaged in operations specified in section 12-99-2(a)(1) through 12-99-2(a)(4) of this chapter. Those emergency response organizations who have developed and implemented programs equivalent to this section for handling releases of hazardous substances pursuant to section 303 of the Superfund Amendments and Reauthorization Act of 1986 (Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §11003) shall be deemed to have met the requirements of this section.

(b) Emergency response plan. An emergency response plan shall be developed and implemented to handle anticipated emergencies prior to the commencement of emergency response operations. The plan shall be in writing and available for inspection and copying by employees, their representatives, and the director. Employers who will evacuate their employees from the danger area when an emergency occurs, and who do not permit any of their employees to assist in handling the emergency, are exempt from the requirements of this section if they provide an emergency action plan in accordance with chapter 12-71 (Means of Egress).

(c) Elements of an emergency response plan. The employer shall develop an emergency response plan for emergencies which shall address, as a minimum, the following to the extent that they are not addressed elsewhere:

- (1) Pre-emergency planning and coordination with outside parties;
- (2) Personnel roles, lines of authority, training, and communication;
- (3) Emergency recognition and prevention;
- (4) Safe distances and places of refuge;
- (5) Site security and control;
- (6) Evacuation routes and procedures;
- (7) Decontamination procedures;
- (8) Emergency medical treatment and first aid;
- (9) Emergency alerting and response procedures;
- (10) Critique of response and follow-up;
- (11) PPE and emergency equipment; and
- (12) Emergency response organizations may use the local emergency response plan or the state emergency response plan, or both, as part of their emergency response plan to avoid duplication. Those items of the emergency response plan that are being properly addressed by the Superfund Amendments and Reauthorization Act (SARA) Title III plans may be substituted into their emergency plan or otherwise kept together for the employer and employee's use.

(d) Procedures for handling emergency response.

- (1) The senior emergency response official responding to an emergency shall become the individual in charge of a site-specific Incident Command System (ICS). All

emergency responders and their communications shall be coordinated and controlled through the individual in charge of the ICS assisted by the senior official present for each employer.

NOTE; The "senior official" at an emergency response is the most senior official on the site who has the responsibility for controlling the operations at the site. Initially it is the senior officer on the first-
due piece of responding emergency apparatus to arrive on the incident scene. As more senior officers arrive (i.e., battalion chief, fire chief, state law enforcement official, site coordinator, etc.) the position is passed up the line of authority which has been previously established.

- (2) The individual in charge of the ICS shall identify, to the extent possible, all hazardous substances or conditions present and shall address as appropriate site analysis, use of engineering controls, maximum exposure limits, hazardous substance handling procedures, and use of any new technologies.
- (3) Based on the hazardous substance or conditions present, the individual in charge of the ICS shall implement appropriate emergency operations, and assure that the personal protective equipment worn is appropriate for the hazards to be encountered. However, personal protective equipment shall meet, at a minimum, the criteria contained in chapter 12-63 when worn while performing fire fighting operations beyond the incipient stage for any incident.
- (4) Employees engaged in emergency response and exposed to hazardous substances presenting an inhalation hazard or potential inhalation hazard shall wear positive pressure self-contained breathing apparatus while engaged in emergency response, until such time that the individual in charge of the ICS determines through the use of air monitoring that a decreased level of respiratory protection will not result in hazardous exposures to employees.
- (5) The individual in charge of the ICS shall limit the number of emergency response personnel at the emergency site, in those areas of potential or actual exposure to incident or site hazards, to those who are actively performing emergency operations. However, operations in hazardous areas shall be performed using the buddy system in groups of two or more.
- (6) Back-up personnel shall stand by with equipment ready to provide assistance or rescue. Advance first-aid support personnel, as a minimum, shall also stand by with medical equipment and transportation capability.
- (7) The individual in charge of the ICS shall designate a safety official, who is knowledgeable in the operations being implemented at the emergency response site, with specific responsibility to identify and evaluate

- (8) hazards, and to provide direction with respect to the safety of operations for the emergency at hand. When activities are judged by the safety official to be an IDLH condition or to involve an imminent danger condition, the safety official shall have the authority to alter, suspend, or terminate those activities. The safety official shall immediately inform the individual in charge of the ICS of any actions needed to be taken to correct these hazards at the emergency scene.
- (9) After emergency operations have terminated, the individual in charge of the ICS shall implement appropriate decontamination procedures.
- (10) When deemed necessary for meeting the tasks at hand, approved self-contained compressed air breathing apparatus may be used with approved cylinders from other approved self-contained compressed air breathing apparatus provided that such cylinders are of the same capacity and pressure rating. All compressed air cylinders used with self-contained breathing apparatus shall meet U.S. Department of Transportation and National Institute for Occupational Safety and Health criteria.

(e) Skilled support personnel. Personnel, not necessarily an employer's own employees, who are skilled in the operation of certain equipment, such as mechanized earth moving or digging equipment or crane and hoisting equipment, and who are needed temporarily to perform immediate emergency support work that cannot be reasonably performed in a timely fashion by an employer's own employees, and who will be or may be exposed to the hazards at an emergency response scene, are not required to meet the training required in this section for the employer's regular employees. However, these personnel shall be given an initial briefing at the site prior to their participation in any emergency response. The initial briefing shall include instruction in the wearing of appropriate personal protective equipment, what chemical hazards are involved, and what duties are to be performed. All other appropriate safety and health precautions provided to the employer's own employees shall be used to assure the safety and health of these personnel.

(f) Specialist employees. Employees who, in the course of their regular job duties, work with and are trained in the hazards of specific hazardous substances, and who will be called upon to provide technical advice or assistance at a hazardous substance release incident to the individual in charge, shall receive training or demonstrate competency in the area of their specialization annually.

(g) Training. Training shall be based on the duties and function to be performed by each responder of an emergency response organization. The skill and knowledge levels required for all new responders, those hired after the effective date of this standard, shall be conveyed to them through training before they are permitted to participate in actual emergency operations on an incident.

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INTERNAL TESTING

Employees who participate, or are expected to participate, in emergency response, shall be given training in accordance with the paragraphs that follow.

(1) First responder awareness level. First responders at the awareness level are individuals who are likely to witness or discover a hazardous substance release and who have been trained to initiate an emergency response sequence by notifying the proper authorities of the release. They would take no further action beyond notifying the authorities of the release. First responders at the awareness level shall have sufficient training or have had sufficient experience to objectively demonstrate competency in the following areas:

- (A) An understanding of what hazardous substances are, and the risks associated with them in an incident;
- (B) An understanding of the potential outcomes associated with an emergency created when hazardous substances are present;
- (C) The ability to recognize the presence of hazardous substances in an emergency;
- (D) The ability to identify the hazardous substances, if possible;
- (E) An understanding of the role of the first responder awareness individual in the employer's emergency response plan including site security and control and the U.S. Department of Transportation's Emergency Response Guidebook; and
- (F) The ability to realize the need for additional resources, and to make appropriate notifications to the communication center.

POLICE

(2) First responder operations level. First responders at the operations level are individuals who respond to releases or potential releases of hazardous substances as part of the initial response to the site for the purpose of protecting nearby persons, property, or the environment from the effects of the hazardous substance release. They are trained to respond in a defensive fashion without actually trying to stop the release. Their function is to contain the release from a safe distance, keep it from spreading, and prevent exposures. First responders at the operational level shall have received at least eight hours of training or have had sufficient experience to objectively demonstrate competency in the following areas in addition to those listed for the awareness level and the employer shall so certify:

- (A) Knowledge of the basic hazard and risk assessment techniques;

8 hours

REGULAR FIRE PERSONNEL

- (B) Know how to select and use proper personal protective equipment provided to the first responder operational level;
- (C) An understanding of basic hazardous materials terms;
- (D) Know how to perform basic control, containment and confinement operations within the capabilities of the resources and personal protective equipment available with their unit;
- (E) Know how to implement basic decontamination procedures; and
- (F) An understanding of the relevant standard operating procedures and termination procedures.

(3)

Hazardous materials technician. Hazardous materials technicians are individuals who respond to releases or potential releases for the purpose of stopping the release. They assume a more aggressive role than a first responder at the operations level in that they will approach the point of release in order to plug, patch, or otherwise stop the release of hazardous substance. Hazardous materials technicians shall have received at least 24 hours of training equal to the first responder operations level; and, in addition, the employer shall certify that the technician is competently trained in the following areas:

24 hours

- (A) Know how to implement the employer's emergency response plan;
- (B) Know the classification, identification and verification of known and unknown materials by using field survey instruments and equipment;
- (C) Be able to function within an assigned role in the Incident Command System;
- (D) Know how to select and use proper specialized chemical personal protective equipment provided to the hazardous materials technician;
- (E) Understand hazard and risk assessment techniques;
- (F) Be able to perform advance control, containment, and confinement operations within the capabilities of the resources and personal protective equipment available with the unit;
- (G) Understand and implement decontamination procedures;
- (H) Understand termination procedures; and
- (I) Understand basic chemical and toxicological terminology and behavior.

(4)

Hazardous materials specialist. Hazardous materials specialists are individuals who respond with and provide support to hazardous materials technicians. Their duties parallel those of the hazardous materials technician; however, those duties require a more directed or specific knowledge of the various substances they may be called upon to contain. The hazardous materials specialist would also act as the site liaison

24+8

SITE LIAISON

with Federal, state, local and other government authorities in regards to site activities. Hazardous materials specialists shall have received at least 24 hours of training equal to the technician level; and, in addition, the employer shall certify that the specialist is competently trained in the following areas:

- (A) Know how to implement the local emergency response plan;
- (B) Understand classification, identification and verification of known and unknown materials by using advanced survey instruments and equipment;
- (C) Know of the state emergency response plan;
- (D) Be able to select and use proper specialized chemical personal protective equipment provided to the hazardous materials specialist;
- (E) Understand in-depth hazard and risk techniques;
- (F) Be able to perform specialized control, containment, and confinement operations within the capabilities of the resources and personal protective equipment available;
- (G) Be able to determine and implement decontamination procedures;
- (H) Have the ability to develop a site safety and control plan; and
- (I) Understand chemical, radiological and toxicological terminology and behavior.

- (5) On scene incident commander. Incident commanders, who will assume control of the incident scene beyond the first responder awareness level, shall receive at least 24 hours of training equal to the first responder operations level; and, in addition, the employer shall certify that the incident commander is competently trained in the following areas:

- (A) Know and be able to implement the employer's incident command system;
- (B) Know how to implement the employer's emergency response plan;
- (C) Know and understand the hazards and risks associated with employees working in chemical protective clothing;
- (D) Know how to implement the local emergency response plan;
- (E) Know of the state emergency response plan and of the Federal Regional Response Team; and
- (F) Know and understand the importance of decontamination procedures.

(h) Trainers. Trainers who teach any of the above training subjects shall have satisfactorily completed a training course for teaching the subjects they are expected to teach, such as the courses offered by the U.S. National Fire Academy, or they shall have the training or academic credentials, or both, and instructional experience necessary to demonstrate competent

instructional skills and a good command of the subject matter of the courses they are to teach.

(1) Refresher training.

(1) Those employees who are trained in accordance with subsection (g) above shall receive annual refresher training of sufficient content and duration to maintain their competencies, or shall demonstrate competency in those areas at least yearly.

(2) A statement shall be made of the training or competency, and if a statement of competency is made, the employer shall keep a record of the methodology used to demonstrate competency.

(j) Medical surveillance and consultation.

(1) Members of an organized and designated HAZMAT team and hazardous materials specialists shall receive a baseline physical examination and be provided with medical surveillance as required in section 12-99-8 above.

(2) Any emergency response employees who exhibit signs or symptoms which may have resulted from exposure to hazardous substances during the course of an emergency incident, either immediately or subsequently, shall be provided with medical consultation as required in section 12-99-8(c)(2) above.

(k) Chemical protective clothing. Chemical protective clothing and equipment to be used by organized and designated HAZMAT team members, or to be used by hazardous materials specialists, shall meet the requirements of section 12-99-9(d) through 12-99-9(f) above.

(1) Post-emergency response operations. Upon completion of the emergency response, if it is determined that it is necessary to remove hazardous substances, health hazards, and materials contaminated with them (such as contaminated soil or other elements of the natural environment) from the site of the incident, the employer conducting the clean-up shall comply with one of the following:

(1) Meet all of the requirements of sections 12-99-4 through 12-99-16 and section 12-99-19; or

(2) Where the clean-up is done on plant property using plant or workplace employees, such employees shall have completed the training requirements of the following: chapters 12-64; 12-71; 12-203; and other appropriate safety and health training made necessary by the tasks that they are expected to perform, such as personal protective equipment and decontamination procedures. All equipment to be used in the performance of the clean-up work shall be in serviceable condition and shall have been inspected before use. [Eff. and comp 3/22/91; am 6/8/92] (Auth: HRS §396-4) (Imp: HRS §396-4)

State & County must

Appendix E

Releases of Hazardous Substance that Require an Emergency Response

The distinction between an incidental release of hazardous substances and a release that requires an emergency response is fundamental to the enforcement of 1910.120. The standard was written to cover a wide array of facilities and situations: "Emergency response operations for releases of, or substantial threats of release of, hazardous substances without regard to the location of the hazard." (1910.120(a)(1)(v))

Releases of hazardous substances in the work place can be categorized into three distinct groups in terms of compliance with 1910.120. These groups are 1) releases that are clearly incidental in nature regardless of the circumstances, 2) releases that may be incidental or may require an emergency response depending on the circumstances, and 3) releases that clearly require an emergency response regardless of the circumstances.

Releases that are clearly Incidental.

The HAZWOPER standard addresses the inevitable release of a hazardous substance that is limited in quantity and poses no emergency or threat to the safety and health of workers in the immediate vicinity. These releases are common and ubiquitous, and fall outside the scope of 1910.120. This type of release is referred to as an "incidental release" in paragraph 1910.120(a)(3), where "emergency response" or "responding to emergencies" is defined.

An incidental release is a release of hazardous substance which does not pose a significant safety or health hazard to employees in the immediate vicinity or to the worker cleaning it up, nor does it have the potential to become an emergency. Incidental releases are limited in quantity, exposure potential, toxicity or some combination of the three that clearly presents no safety or health hazard to workers in the immediate work area or those assigned to clean it up.

If the hazardous substances that are handled or used in the work area are always in very small quantities, such as a laboratory which handles pint sizes down to test tubes, and the hazardous substances do not pose a significant safety and health threat at that volume, then the risks of having a release that transcends into an emergency are minimal. In this setting incidental releases will generally be the norm and employees will be trained to know how to protect themselves in handling incidental releases.

Releases that may be Incidental or Require an Emergency Response
Depending on the Circumstances.

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The properties of hazardous substances, such as toxicity, volatility, flammability, corrosiveness, etc., as well as the particular circumstances of the release itself, such as quantity, confined space considerations, local ventilation etc., will have an impact on what employees can handle safely and, consequently, what procedures should be followed. Additionally, there are other factors which may mitigate the hazard associated with cleaning up releases, such as the knowledge of the employee in the immediate work area, the response and personal protective equipment at hand and pre-established standard operating procedures for responding to releases of hazardous substances.

These three considerations, properties of the hazardous substance, the circumstances of the release and the mitigating factors in the work area combine to define the distinction between incidental releases and release that require an emergency response, for releases that are neither clearly incidental in nature nor clearly require an emergency response.

For example a spill of 10 gallons of the solvent toluene in a facility that manufactures toluene may not require an emergency response because of the advanced knowledge of the personnel in the immediate vicinity and equipment available to clean up the spill. However, the same 10 gallon spill in a furniture refinishing shop with personnel that have had only the basic hazard communication training on toluene may require an emergency response from outside the immediate release area. The furniture refinishing shop's emergency response plan in this case would call for evacuation for all but the most minor spills, while evacuation and emergency response would only be necessary for much larger spills at the chemical manufacturing facility.

Releases that Require an Emergency Response Regardless of the Circumstances.

There are releases of hazardous substances that pose a significant enough threat to health and safety that by their very nature require an emergency response, regardless of the circumstances surrounding the release or the mitigating factors.

OSHA has offered several interpretations defining this type of release. A summary of the interpretive guidance published by OSHA to date is found in table E1.

Table E1.

Guidance concerning the indication that an emergency response is required. An employer must determine all likely potential for emergencies using worst case assumptions and plan response

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procedures accordingly. An emergency response includes, but is not limited to, the following:

- . Response comes from outside the immediate release area;
- . Employees must evacuate the area;
- . The release poses potential IDLH conditions;
- . The release poses a fire or explosion hazard (exceeds or has the potential to exceed 25% of the lower explosive level or lower flammability level);
- . The release requires immediate attention because of imminent danger;
- . The release may cause high levels of exposure to toxic substances;
- . The release is life or injury threatening;
- . There is uncertainty that the exposure limit has been exceeded; and
- . The situation is unclear, or data is lacking on important factors.

Personal Protective Equipment and the Distinction Between Incidental Releases and Emergency Response.

OSHA does not consider personal protective equipment a defining criteria of whether or not a particular release necessitates an emergency response or not.

Many times, the level of PPE used to respond to a release is conservative because of unknowns. Although upgrading PPE may be appropriate during a response, the unknown characteristics of the release may require that emergency response procedures are followed. In this scenario it is not the level of PPE that would define the release as one requiring an emergency response, but rather the unknown exposure characteristics of the release (see table E1).

Responders from Outside the Immediate Release Area

Paragraph (a)(3) defines "emergency response" as follows:

"Emergency response" means a response effort by employees from outside the immediate release area or by other designated responders (i.e., mutual-aid groups, local fire

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departments, etc.) to an occurrence which results or is likely to result in an uncontrolled release of a hazardous substance. Responses to incidental releases of hazardous substances where the substance can be absorbed, neutralized, or otherwise controlled at the time of release by employees in the immediate release area, or by maintenance personnel are not considered to be emergency responses within the scope of this standard. Responses to releases of hazardous substances where there is no potential safety or health hazard (i.e., fire, explosion, or chemical exposure) are not considered to be emergency responses.

The standard covers responses "by other designated responders". The use of the "or" is interpreted by OSHA to mean that "responders" are a separate group, different from employees within the immediate release area, directed to respond to the emergency by the employer. Employees working in the immediate release area, not just outsiders, are covered, if the employer designates them to respond to emergencies or assist others in handling an emergency. 1910.120 (q) uses the term "responders" generally to refer to employees who respond to emergencies in certain ways. The phrase "a response effort by employees from outside the immediate release area" is intended to permit employees who are in the immediate release area to take appropriate corrective actions to prevent a minor leak or incidental release from escalating into an emergency.

For an emergency to be covered by the standard, conditions causing a dangerous situation are sufficient, there need not be both an emergency and a response by outside responders. For example, a release of chlorine gas above the IDLH, obscuring visibility and moving through a facility is an emergency situation even if the initial responders are from the immediate release area. Employees who would respond to this hypothetical situation, regardless of where they normally work, would need to act in accordance with HAZWOPER paragraph (q).

Conversely, incidental releases of hazardous substances that are routinely cleaned up by those from outside the immediate release area need not be considered emergency responses solely because the employee responsible for cleaning it up comes from outside the immediate release area. For example, paint thinner is spilled in an art studio and the janitor is called from outside the immediate release area to mop it up. The janitor does not have to respond in accordance with HAZWOPER, although the janitor would be expected to understand the hazards associated with paint thinner through Hazard Communication training.

The Superfund Amendments and Reauthorization Act (SARA), the statute that mandated HAZWOPER, directs broad coverage of all

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employees responding to emergencies with no limitation on their location. SARA states, "standards shall set forth responding requirements for training of workers who are responsible for responding to hazardous emergency situations who may be exposed to toxic substances" (See SARA 126(d)(4)).

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Appendix F
HAZWOPER Emergency Response Training Requirements

<u>Training level</u>	<u>Initial (Minimum Training)</u>	<u>Certification</u>
First Responder Awareness Level (Level 1)	Sufficient training <u>or</u> proven experience in specific competencies listed. Some Hazard Communication training may fulfill Level 1 competencies.	Initial: not required Annual: by employer
First Responder Operations Level (Level 2)	Level 1 competency <u>and</u> 8 hours initial training <u>or</u> proven experience in specific competencies.	Initial: by employer Annual: by employer
HAZMAT Technician (Level 3)	24 hours of Level 2 <u>and</u> proven experience in specific competencies.	Initial: by employer Annual: by employer
HAZMAT Specialist	24 hours of Level 3 <u>and</u> proven experience in specific competencies.	Initial: by employer Annual: by employer
On Scene Incident Commander	24 hours of Level 2 <u>and</u> proven experience in specific competencies.	Initial: by employer Annual: by employer
Specialist Employee	Receive training or demonstrate competency in specialization annually.	Initial: not required Annual: not required
Skilled Support Personnel	Skilled in operation of certain equipment needed temporarily to perform immediate emergency support work.	Initial: not required Annual: not required

Employees can attain the First Responder Awareness level and First Responder Operations level training based on competencies developed through past work experience; these employees must have training or proven experience in specific competencies to match their job duties.

OSHA does not certify individuals; it is the employer who must show by documentation or certification that an employee's work experience and/or training meets the requirements of 1910.120 (g). There must be certification which clearly identifies the employee, the person certifying the employee, and the training and/or past experience which meets the requirements. One possibility would be to include this information in the employee's personnel file. The preferred method is to include this information on a separate certificate for each employee.

Appendix F
 Training Levels and Emergency Response Roles for Community Services Personnel

Personnel Role	Emergency Responder Training	Duties and Responsibilities	Medical Surveillance Requirements
Police, Guard, Security Personnel	Awareness Level	Alert proper authorities of release, provide security at the scene until others arrive. No further action allowed.	None.
	Operations Level	Alert proper authorities, take defensive action, diking, evacuation and containment remote from danger area. May participate in decontamination of victims.	Consultation and examination if exposed to hazardous substance with development of signs or symptoms.
Fire fighter	Operations Level, (minimal response level for fire-fighters).	Take defensive action, diking, evacuation and containment remote from the danger area. May participate in decontamination of victims.	Consultation and examination if exposed to hazardous substance with development of signs or symptoms.
	Advanced Operations Level (fire fighter trained fully in hazards of propane or gas)	Take defensive action remote from danger area and limited offensive action at fires where potential for chemical contamination is minimal (e.g. propane or gasoline fires)	Consultation and examination if exposed to hazardous substance with development of signs or symptoms.

23

Appendix F
Training Levels and Emergency Response Roles for Community Services Personnel.

Personnel Role	Emergency Responder Training	Duties and Responsibilities	Medical Surveillance Requirements
Fire fighter (Continued)	Hazardous Material Technician Level.	Take aggressive action to contain the release, enter the danger area. Competent to wear chemical protective clothing.	Medical examination prior to assignment, at least once every 12 months, upon termination or reassignment and upon signs or symptoms of exposure.
	Hazardous Material Specialist Level.	Take aggressive action to contain release, enter the danger area, have specific knowledge concerning the hazardous substance. Competent to wear chemical protective clothing.	Medical examination prior to assignment, at least once every 12 months, upon termination or reassignment and upon signs or symptoms of exposure.
	On Scene Incident Commander (May be a police officer)	Manages and directs entire emergency response activity at the incident scene.	Consultation and examination if exposed to hazardous substance with development of signs or symptoms.

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Training Levels and Emergency Response Roles for Community Services Personnel

Personnel Role	Emergency Responder Training	Duties and Responsibilities	Medical Surveillance Requirements
Emergency Medical Care Provider.	Awareness Level	Alert proper authorities of release. No further action allowed. None.	Consultation and examination if exposed to hazardous substance with development of signs or symptoms.
	Advanced Operations Level (fully trained in PPE & decontamination procedures)	May participate in decontamination of victims. May not enter the danger area to rescue or aid victims.	Medical examination prior to assignment, at least once every 12 months, upon termination or reassignment and upon signs or symptoms exposure.
	Technician Level.	May set up and perform decontamination. May enter the danger area to treat or help evacuate victims. Competent to wear chemical protective clothing.	

25

**Community Response Capabilities to be Based on Community Needs.
29 CFR 1910.120(q)(6)**

HAZWOPER is a performance-based regulation, allowing individual employers flexibility in meeting the requirements of the regulation in the most cost-effective manner. It is not OSHA's intent that every member of a community's emergency response services receive high levels of specialized hazardous materials training. The community may determine that it is appropriate for the fire department to develop a small group of highly trained hazardous materials technicians and specialists, called a "Hazmat team," or may find that the community does not require a hazmat team and that less intensive training is adequate. Likewise, all emergency medical technicians (EMTs) (e.g., ambulance corps members) do not need to be trained to treat contaminated victims.

To determine the appropriate level and type of training under HAZWOPER, community response agencies will need to consider the hazards present in their community, and determine what capabilities will be required to respond effectively to those hazards. This determination is to be based on worst-case scenarios. A community where a tank farm storing immense quantities of hazardous substances is located will have different needs than a locality where there is a meat processing facility with a refrigeration system using ammonia as a cooling agent. Many communities may find that emergency planning efforts conducted to meet the requirements of SARA Title III will fulfill several of the requirements of HAZWOPER.

file: q(6)cerm.irs
letter: JChapman 11-20-92

**Training Options for Community Emergency Response Agencies.
29 CFR 1910.120(q)(6)**

There are several options to meet the training requirements of 1910.120. An in-house training program may be developed. Paragraph (q)(7) defines credential requirements for trainers. Training courses are also available from a number of sources, at varying costs. You may wish to contact the National Institute for Environmental Health Sciences (NIEHS) for information on training courses developed by universities and other not-for-profit organizations, at the following address:

**Worker Training and Education Branch
Occupational Health and Technical Services
NIEHS, North Campus Building, 18 Room 1810
Research Triangle Park, North Carolina 27709**

HAZARDOUS MATERIALS TRAINING

HSERC BRIEFING MAY 13, 1993

Congress has appropriated \$4 million in FY 1993 to FEMA for the support of State and local hazardous materials training programs. These training funds are intended to improve emergency planning, emergency notification, hazardous chemical reporting, preparedness, mitigation, response and recovery capabilities in support of Title III. The State of Hawaii was allocated \$41,000 to support its hazmat training needs.

Additionally, we have applied for hazmat training funds through the Hazardous Materials Transportation Uniform Safety Act (HMTUSA) grant program. Our request for \$32,650 was recently approved by the Department of Transportation. State Civil Defense, in conjunction with Honolulu Community College, will utilize the training fund to offset tuition fees for government participants attending the "Initial Response To Hazardous Materials Incidents" course. This two-day course provides information on basic concepts and techniques on what the first responder should do before, during and after the incident. The course will be taught by Fire Captain Carter Davis and will be offered several times this year at Honolulu Community College.

Working with the Environmental Protection Agency, State Civil Defense presented a forty hour "Emergency Response To Hazardous Materials Incidents - Technician Level" course in Honolulu on February 8-12, 1993. This popular course provided emergency response personnel with information and skills needed to respond to the release or potential release of hazardous materials. The course also covered general topics of expected hazards, personal protection, site characterization and the regulations governing hazardous materials incidents. The course contractor, Resource Applications, Inc., also presented a three-day version of this course on Maui on February 16-18, 1993.

On March 4, 1993, State Civil Defense sponsored some participants to a one-day seminar in Honolulu on "Federal and Hawaii State Hazardous Chemical Regulations and Training Requirements". The seminar, presented by Dr. John Bowen, covered Federal laws, regulations, and standards that mandate training for handling hazardous materials; recognition and identification; packaging for hazardous materials; and the Hawaii Revised Statutes, Chapter 28D on Environmental Response Law.

State Civil Defense recently conducted a one-day "Refresher Course for Radiological Defense Officers" in Hilo on April 29, 1993. The course updated the Big Island's radiological response teams on procedures for responding to a radiological incident that may involve a spill or fire containing radiological pharmaceuticals or radiological medical waste. In Honolulu, the fire department's hazmat team has responded to several alarms at the H-Power Plant dump site as a result of radiological wastes improperly discarded.

State Civil Defense will be sponsoring some emergency management staff to attend the "Hazardous Materials Contingency Planning" course in San Jose, California from June 28 to July 2, 1993. This course covers emergencies, including transportation, use, storage, and disposal of hazardous materials, and episodic releases of air-toxic chemicals from fixed-site facilities. Topics include local, State, and Federal mechanisms to assist in planning and response, tactical requirements, hazardous materials characteristics, and regulatory compliance.

Working with the Hawaii State Fire Council, State Civil Defense will provide training support for the "Western Fire Chief's Conference" on Maui from July 27-29, 1993. Additionally, we'll be sponsoring a "Chemistry of Hazardous Materials" course in Honolulu on August 9-19, 1993, and a "Hazmat Technician's Course" on October

4-15, 1993 in Honolulu at the Fire Training Academy. Both courses are aimed at providing our local fire department's hazmat response team with the basic knowledge and understanding required to evaluate the potential hazards and behaviors of hazardous materials, improve decision making, safety operations, and handling procedures.

State Civil Defense has negotiated with the EPA to present a forty-hour "Emergency Response To Hazardous Materials Incidents - Technician Level" course in Honolulu from October 11-15, 1993 and in Hilo on October 18-22, 1993. A repeat performance by Resource Applications, Inc., the course focuses on recognizing and evaluating a hazardous materials incident, organizing a response team, protecting response personnel, identifying and using response resources, implementing basic control measures, decision making, and protecting the public.

The Environmental Protection Agency has also agreed to present the "Emergency Response To Hazardous Material Incidents" course in Honolulu on May 9-13, 1994 and the "Safety and Health Decision Making for Managers" course on April 26-28, 1994. The latter course will improve development, implementation, and management of safety programs for chemical emergencies of investigations, and help participants facilitate adequate control of activities at hazardous waste sites.

In summary, State Civil Defense is working diligently with various agencies to broaden the training program and increase public awareness of hazmat safety and create a State-wide emergency response capability to hazmat incidents.

May 12, 1993

**DRAFT MEETING SUMMARY
HAWAII STATE EMERGENCY RESPONSE COMMISSION
MEETING #15**

Friday, March 12, 1993
9:00 a.m. - 12:00 p.m.

Department of Health
Kinau Hale Board Room, 1st Floor
1250 Punchbowl Street
Honolulu, Hawaii 96813

HSERC Commission Members and Representatives

John C. Lewin, M.D., Chair, HSERC, DOH
Bruce S. Anderson, Ph.D., Vice Chair, HSERC, DOH
Alden Kang for Major General Edward Richardson, DOD
Gerald Kinro for Yukio Kitagawa, BOA
Russell Charlton for Keith Ahue, DLIR
Tom Smyth for Mufi Hannemann, DBEDT
Walter Patrick for B.Z. Siegel, UH-SPH
Jiggie Hommon, American Red Cross, Hawaii State Chapter
Chris Takeno for George Kekuna, Honolulu LEPC Representative
Clifford Ikeda, Kauai LEPC Representative
Sel Menor, Maui LEPC Representative
Harry Kim, Hawaii LEPC Representative

Other Attendees

Joseph Blackburn
Alejandro Lomosad, Kauai FD
Michael Choy, HECO
Jim Vinton, BHPPA
Kathy Ho, AG
Eugene Lee, City DPW
James Bac, DBEDT
Steven Armann, DOH

Rhonda Goyke, DOH
Laura Young, DOH
Mike Cripps, DOH

I. Call to Order

The 15th meeting of the HSERC was called to order by Dr. Bruce S. Anderson at 9:15 a.m.

A. OPENING REMARKS

Rhonda Goyke will be moving to the position of On-Scene Coordinator. Laura Young will be replacing her and assuming HSERC and EPCRA responsibilities.

EPA is sponsoring an EPCRA workshop on March 18, 1993. The Honolulu Fire Department, Department of Defense, and Hazard Evaluation and Emergency Response Office will be conducting the morning session. Stan Kallo from Toxic Release Inventory will be conducting afternoon session regarding Form R completion and Inventory and Spill Reporting. For further information, see Laura or Rhonda.

Disaster Management Workshop sponsored by the University of Hawaii, School of Public Health will be held on 4/14/93, free, full day. For more information contact Dr. Walter Patrick at the School of Public Health.

B. Approval of Minutes from HSERC Meeting #14.

Minutes were approved without changes.

II. UPDATE FROM ATTORNEY GENERALS OFFICE

Kathy Ho, Deputy Attorney will be attending all future HSERC meetings. Present all commission issues in need of clarification to Kathy Ho.

Issue 1:

Captain Blackburn presented an incident where supplies/equipment used for emergency response was denied reimbursement. From the ensuing discussion questions arose as to what are the authorized

expenditures under the Environmental Response Fund?

Steve Armann stated that there are no set procedures under 128D.

Dr. Anderson requested that research be conducted by Kathy Ho on what are authorized expenditures under the Environmental Response Law and to present findings at the next HSERC meeting.

Issue 2:

Since the LEPCs are considered state entities, are the LEPCs covered under the AGs office? Will the AGs office represent them in commission activities?

Issue 3:

Under the EPCRA Bill, penalties are stated, however, there is no current enforcement process in place. How can the city, county, and state agencies ensure facility owners are in compliance when there is no enforcement measures in effect? What type of system can be used, i.e. warning/citation?

III. UPDATE OF LEGISLATURE

Two Bills presented to the Legislature are still intact. The Senate has deleted special funds. The bill has been amended to include filing fees (\$100 per Tier II or facility) deposited into the general fund. To recover funds the State will need to submit budget package to Legislatures.

HB 1653 fee and special fund still intact. Total amount of revenues amount to \$ 60,000 for one staff person. This is a minimal amount covering only the bare necessities.

Commission members who would like to be notified of upcoming hearing contact Steve Armann at 586-4249 for hearing dates and times.

IV. ETHYLENE OXIDE RELEASE ON KAUAI-Mike Cripps

Agencies who would like to present emergency response incidents at future HSERC meetings are welcomed. Notify Laura Young.

On January 14, 1993, Kauai Veterans Hospital experienced a release of ethylene oxide. One employee of the hospital was hospitalized. Symptoms ranged from skin irritation, respiratory difficulties, and

nausea. Evacuation procedures took place when air conditioning units circulated ethylene oxide into undetermined areas of Kauai Veterans Hospital. The Kauai Fire Department was first notified followed by State District Health Officers, who called Hazard Evaluation and Emergency Response Office.

Telephone conversations between the Kauai Fire Department (On-Scene Incident Commander) and Mike Cripps (HEER) informed one another of the situation. Permission to re-enter the hospital facilities was determined by the Kauai Veterans Hospital Administrator.

The question was raised if the administrator had the authority to determine the building was safe to re-enter, and who has the authority or can actually determine who should take the responsibility of declaring the building safe to enter for staff/public.

There are a number of chemicals (i.e. ethylene oxide) that are not classified or listed by EPA as a extremely hazardous substance. In addition some are under the reportable threshold quantity. Because of this, facilities are not mandated to report these non-classified hazardous substance or those under the reportable threshold quantity.

The HSERC needs to place the proper authorities with the statutes, then through the rule-making process establish locally reportable chemicals that is over and above the EPAs list. This would then mandate local reporting.

Joe Blackburn reports facility owners give after-the fact reports of hazardous substances releases. Fire Department are not involved with monitoring or clean up processes. Although facility owners notify the National Response Center, local notification does not occur.

The Department of Labor and Industrial Relations requests agencies receiving notification of hazardous substance releases (that pose danger to employees) notify DLIR. DLIR will then have an opportunity to see if the facility has an Emergency Response Plan Manual, are all users of the hazardous substances trained for emergency response, are emergency response procedures being implemented and post-release procedures.

IV. HMTUSA GRANT UPDATE/REVIEW

The State of Hawaii maximum allocation for planning \$32,000 and \$38,000 for training, Hawaii is number 48 in pecking order, grants are on reimbursable basis, 20% soft match requirement, 75% planning grant must be given or be used directly for the LEPCs and 75% of training grant must go to the training of public employees. Grant allocation to be announced April 1, 1993.

V. Closing Announcements

Next HSERC meeting to be scheduled after end of current legislative session.

Dr. Lewin requested that everyone assist in supporting SB 1410 and SB 1653 by attending legislative hearings or contacting appropriate parties.

Harry Kim requested a letter from Dr. Lewin to the Mayor of Hawaii County for the nomination of LEPC members. Sel Menor also requested a letter for Maui County LEPC nominations. Clifford Ikeda stated that a letter was not needed for Kauai County.

Dr. Lewin will also send a letter to the appropriate persons on Kauai to remind the military to meet of their commitment to assist in emergency planning in the event of a hydrazine release. The military agreed to;

- 1) provide emergency training
- 2) allow the County of Kauai to review the hydrazine emergency response plan prepared by the military
- 3) to provide equipment as needed to implement the emergency response plan.

The motion was made and passed that the following items were to be addressed by the HEER staff?

1. Prepare draft legislation to establish through rule-making process a list of chemicals that we do not want in the state. Or manner to reduce the source of hazardous substances entering Hawaii.
2. Research means to process permits for undesirable hazardous substances, with a fee based on degree of danger and amount

of substances. Include in permit fee proviso for public health and safety.

3. Prepare draft legislation to establish through rule-making process the means in which county and state agency are notified of hazardous chemicals.

The motion was made to adjourn the meeting at 11:30 am. The motion was passed.

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

Respectfully submitted

LAURA L. YOUNG Date

Brief
Dr. Lewin
Dr. Anderson

HAWAII STATE EMERGENCY RESPONSE COMMISSION
MEETING #16

Thursday May 13, 1993
9:00 am - 12:00 pm

AGENDA

- I. Call to Order
 - A. Opening Remarks
 - B. Discussion/Approval of Minutes from HSERC Meeting #15
- II. Update by Attorney Generals Office (Kathy Ho 30 minutes)
Dr. LEWIN TO INTRODUCE KATHY HO

At the last meeting of the HSERC questions were raised for the Attorney Generals Office to research. They included (1) reimbursements from the environmental response fund for equipment used for chemical emergency responses, (YES, BUT WE NEED TO DEVELOP DOH POLICY) (2) if the Attorney General office will represent the LEPC if requested, and (3) can an enforcement or citation system be implemented.

- III. Update on Hawaii EPCRA Bill (Steve Armann 30 minutes)
DR. LEWIN TO INTRODUCE STEVE ARMANN
- IV. Update HMTUSA Grant (Laura Young 5 minutes)
DR. LEWIN TO INTRODUCE LAURA YOUNG
- V. Training Requirements (Russ Charlton 1 hour)
DR. LEWIN TO INTRODUCE RUSS CHARLTON

Questions on appropriate levels of training for emergency responders and the agency responsible for providing training funds have been a recurring issue of the HSERC, Russ Charlton from the Department of

Labor and Industrial Relation will address these concerns.

VI. LEPC Membership Representation (Dr. Lewin 30 minutes)

Nominations for LEPC members were requested from the Mayors of the Island of Hawaii and Maui. We have received nominations from both Islands and we can now go through procedures for their appointment.

VII. Schedule Next HSERC Meeting #17

April 5, 1993

E0403ly.h1

To: Kathy Ho, Deputy Attorney General
Office of the Attorney General

From: Steven. S. Armann, Acting Manager
Office of Hazard Evaluation and Emergency Response

Subject: Issues from Hawaii State Emergency Response Commission
meeting, March 12, 1993

The Hawaii State Emergency Response Commission met on March 12, 1993. At this meeting several questions arose that required a legal opinion.

Issue 1

An incident was presented where reimbursement for supplies used by the Maui Fire Department for a chemical emergency response were denied. There was concern that appropriate materials could not be purchased in the future because reimbursement was not assured. Under the Environmental Response Law, what are authorized expenditures and which agencies can be reimbursed.

Issue 2

Since LEPCs are considered state agencies, are the LEPCs also covered by the AGs office, i.e. will the AG office represent them if requested or required.

Issue 3

What can city and state agencies do to ensure compliance with the

reporting requirements of EPCRA? Can an enforcement system be implemented? Can a citation system be implemented?

The next HSERC meeting is scheduled for May 12, 1993, please prepare to respond to these issues at that meeting.

May 12, 1993

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EPA is sponsoring an EPCRA workshop on March 18, 1993. The Honolulu Fire Department, Department of Defense, and Hazard Evaluation and Emergency Response Office will be conducting the morning session. Stan Kallo from Toxic Release Inventory will be conducting afternoon session regarding Form R completion and Inventory and Spill Reporting. For further information, see Laura or Rhonda.

Disaster Management Workshop sponsored by the University of Hawaii, School of Public Health will be held on 4/14/93, free, full day. For more information contact Dr. Walter Patrick at the School of Public Health.

B. Approval of Minutes from HSERC Meeting #14.

Minutes were approved without changes.

II. UPDATE FROM ATTORNEY GENERALS OFFICE

Kathy Ho, Deputy Attorney will be attending all future HSERC meetings. Present all commission issues in need of clarification to Kathy Ho.

Issue 1:

Captain Blackburn presented an incident where supplies/equipment used for emergency response was denied reimbursement. From the ensuing discussion questions arose as to what are the authorized

expenditures under the Environmental Response Fund?

Steve Armann stated that there are no set procedures under 128D.

Dr. Anderson requested that research be conducted by Kathy Ho on what are authorized expenditures under the Environmental Response Law and to present findings at the next HSERC meeting.

Issue 2:

Since the LEPCs are considered state entities, are the LEPCs covered under the AGs office? Will the AGs office represent them in commission activities?

Issue 3:

Under the EPCRA Bill, penalties are stated, however, there is no current enforcement process in place. How can the city, county, and state agencies ensure facility owners are in compliance when there is no enforcement measures in effect? What type of system can be used, i.e. warning/citation?

III. UPDATE OF LEGISLATURE

Two Bills presented to the Legislature are still intact. The Senate has deleted special funds. The bill has been amended to include filing fees (\$100 per Tier II or facility) deposited into the general fund. To recover funds the State will need to submit budget package to Legislatures.

HB 1653 fee and special fund still intact. Total amount of revenues amount to \$ 60,000 for one staff person. This is a minimal amount covering only the bare necessities.

Commission members who would like to be notified of upcoming hearing contact Steve Armann at 586-4249 for hearing dates and times.

IV. ETHYLENE OXIDE RELEASE ON KAUAI-Mike Cripps

Agencies who would like to present emergency response incidents at future HSERC meetings are welcomed. Notify Laura Young.

On January 14, 1993, Kauai Veterans Hospital experienced a release of ethylene oxide. One employee of the hospital was hospitalized. Symptoms ranged from skin irritation, respiratory difficulties, and

nausea. Evacuation procedures took place when air conditioning units circulated ethylene oxide into undetermined areas of Kauai Veterans Hospital. The Kauai Fire Department was first notified followed by State District Health Officers, who called Hazard Evaluation and Emergency Response Office.

Telephone conversations between the Kauai Fire Department (On-Scene Incident Commander) and Mike Cripps (HEER) informed one another of the situation. Permission to re-enter the hospital facilities was determined by the Kauai Veterans Hospital Administrator.

The question was raised if the administrator had the authority to determine the building was safe to re-enter, and who has the authority or can actually determine who should take the responsibility of declaring the building safe to enter for staff/public.

There are a number of chemicals (i.e. ethylene oxide) that are not classified or listed by EPA as a extremely hazardous substance. In addition some are under the reportable threshold quantity. Because of this, facilities are not mandated to report these non-classified hazardous substance or those under the reportable threshold quantity.

The HSERC needs to place the proper authorities with the statutes, then through the rule-making process establish locally reportable chemicals that is over and above the EPA's list. This would then mandate local reporting.

Joe Blackburn reports facility owners give after-the fact reports of hazardous substances releases. Fire Department are not involved with monitoring or clean up processes. Although facility owners notify the National Response Center, local notification does not occur.

The Department of Labor and Industrial Relations requests agencies receiving notification of hazardous substance releases (that pose danger to employees) notify DLIR. DLIR will then have an opportunity to see if the facility has an Emergency Response Plan Manual, are all users of the hazardous substances trained for emergency response, are emergency response procedures being implemented and post-release procedures.

IV. HMTUSA GRANT UPDATE/REVIEW

The State of Hawaii maximum allocation for planning \$32,000 and \$38,000 for training, Hawaii is number 48 in pecking order, grants are on reimbursable basis, 20% soft match requirement, 75% planning grant must be given or be used directly for the LEPCs and 75% of training grant must go to the training of public employees. Grant allocation to be announced April 1, 1993.

V. Closing Announcements

Next HSERC meeting to be scheduled after end of current legislative session.

Dr. Lewin requested that everyone assist in supporting SB 1410 and SB 1653 by attending legislative hearings or contacting appropriate parties.

Harry Kim requested a letter from Dr. Lewin to the Mayor of Hawaii County for the nomination of LEPC members. Sel Menor also requested a letter for Maui County LEPC nominations. Clifford Ikeda stated that a letter was not needed for Kauai County.

Dr. Lewin will also send a letter to the appropriate persons on Kauai to remind the military to meet of their commitment to assist in emergency planning in the event of a hydrazine release. The military agreed to;

- 1) provide emergency training
- 2) allow the County of Kauai to review the hydrazine emergency response plan prepared by the military
- 3) to provide equipment as needed to implement the emergency response plan.

The motion was made and passed that the following items were to be addressed by the HEER staff?

1. Prepare draft legislation to establish through rule-making process a list of chemicals that we do not want in the state. Or manner to reduce the source of hazardous substances entering Hawaii.
2. Research means to process permits for undesirable hazardous substances, with a fee based on degree of danger and amount

of substances. Include in permit fee proviso for public health and safety.

3. Prepare draft legislation to establish through rule-making process the means in which county and state agency are notified of hazardous chemicals.

The motion was made to adjourn the meeting at 11:30 am. The motion was passed.

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

Respectfully submitted

LAURA L. YOUNG Date

CONFERENCE COMMITTEE REP. NO. 207

Honolulu, Hawaii

April 30, 1993

RE: H.B. No. 1653
H.D. 2
S.D. 2
C.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Seventeenth State Legislature
Regular Session of 1993
State of Hawaii

Honorable James Aki
President of the Senate
Seventeenth State Legislature
Regular Session of 1993
State of Hawaii

Sir:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 1653, H.D. 2, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE ENVIRONMENT,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purposes of this bill are to:

- (1) Establish the Hawaii Emergency Planning and Community Right-to-Know Act in conformance with the federal Emergency Planning and Community Right-to-Know Act, including the creation of the Hawaii State Emergency Response Commission and Local Emergency Planning Committees;
- (2) Require that all moneys for environmental health education and program enhancement shall be appropriated by the Legislature from the State general fund;

- (3) Establish an environmental response tax of five cents per barrel of petroleum product sold by a distributor to any end user, other than a refiner, of petroleum product;
- (4) Provide that the revenues generated from the environmental response tax shall be deposited into the environmental response revolving fund and used for:
 - (a) Oil spill planning, prevention, preparedness, education, research, training, removal, and remediation;
 - (b) County used oil recycling programs; and
 - (c) Concerns related to underground storage tanks, including the acquisition of a soil remediation site and facility;and
- (5) Require that when the total revenues in the environmental response revolving fund exceeds \$5,000,000, the imposition of the tax shall be discontinued. It shall be reinstated when the total balance of the fund declines to less than \$2,000,000.

After considerable discussion, your Committee has amended this bill by:

- (1) Deleting the requirement that the environmental health education and program enhancement activities shall be supported by appropriations out of the general fund (Sections 2, 3, and 4 of the S.D. 2);
- (2) Deleting the definitions of "disposal" and "treatment" from Section 128D-1, Hawaii Revised Statutes (Section 5 of the S.D. 2);
- (3) Increasing both thresholds relating to the environmental response revolving fund so that the tax shall be:
 - (a) Discontinued when the balance exceeds \$7,000,000, instead of \$5,000,000 (page 23, line 18); and
 - (b) Reinstated when the balance declines to less than \$3,000,000, instead of \$2,000,000 (page 24, line 3);

- (4) Clarifying the tax collection procedures relating to the environmental response tax as recommended by the Department of Taxation (pages 23 - 24);
- (5) Authorizing, rather than requiring, that environmental response tax revenues be used to address concerns relating to underground storage tanks and soil remediation activities (page 24, line 22);
- (6) Specifying that there shall be imposed a five cents tax on each barrel of petroleum product sold by a distributor to any retail dealer in addition to any end user (page 21, line 10);
- (7) Specifying that an "end user" means any person or government entity who acquires petroleum products for their own use and not for resale (page 22, lines 18 - 19);
- (8) Authorizing the Department of Health to spend \$500,000 during fiscal year 1993-1994 from the environmental response revolving fund, and requiring a report on the use of these funds be submitted to the 1994 Legislature (page 25, lines 4 - 8);
- (9) Specifying that Sections 2, 3, and 4 shall take effect on July 1, 1993, and Sections 2 and 3 shall apply to the sale of petroleum products made after June 30, 1993 (page 25, lines 16 - 18); and
- (10) Correcting certain typographic, technical, and stylistic errors.

The revenues generated from the environmental response tax are estimated to be approximately \$2,000,000, but the impact to the consumer is estimated at only one-tenth of a cent per gallon of petroleum product from automobile users. Your Committee feels this is a very small price to pay to further safeguard Hawaii from the disastrous consequences of an oil spill, to institute immediate oil cleanup in affected waters, and to initiate a county used oil recycling program.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1653, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1653, H.D. 2, S.D. 2, C.D. 1.

MANAGERS ON THE PART OF THE
SENATE

Ann Kobayashi
ANN KOBAYASHI, Co-Chair

Anthony K. U. Chang
ANTHONY K. U. CHANG, Co-Chair

Carol Fukunaga
CAROL FUKUNAGA, Member

Milton Holt
MILTON HOLT, Member

Mary George
MARY GEORGE, Member

Respectfully submitted,

MANAGERS ON THE PART OF THE
HOUSE

Duke Bainum
DUKE BAINUM, Co-Chair

Dwight Y. Takamine
DWIGHT Y. TAKAMINE, Co-Chair

Calvin K. Y. Say
CALVIN K. Y. SAY, Co-Chair

Cynthia Thielen
CYNTHIA THIELEN, Member

A BILL FOR AN ACT

RELATING TO THE ENVIRONMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. The Hawaii Revised Statutes is amended by adding
3 a new chapter to be appropriately designated and to read as
4 follows:

5 "CHAPTER

6 HAWAII EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

7 § -1 Definitions. As used in this chapter, unless the
8 context otherwise requires:

9 "Administrator" means the Administrator of the United States
10 Environmental Protection Agency.

11 "CERCLA" means the Comprehensive Environmental Response,
12 Compensation and Liability Act of 1980, as amended 42 U.S.C.
13 §§9601-9675.

14 "Commission" means the Hawaii state emergency response
15 commission.

16 "Committee" means the local emergency planning committee
17 within each county responsible for preparing hazardous material
18 plans and performing other functions under EPCRA and HEPCRA.

1 "County agency" means a county or any officer or agency
2 thereof.

3 "Department" means the department of health.

4 "Director" means the director of health.

5 "EPCRA" means the Emergency Planning and Community Right-to-
6 Know Act of 1986, as amended, 42 U.S.C. §§11001-11050.

7 "Environment" means any waters, including surface water,
8 ground water, or drinking water; any land surface or any
9 subsurface strata; or any ambient air, within the State or under
10 the jurisdiction of the State.

11 "Extremely hazardous substance" means any substance listed
12 in Appendix A of 40 C.F.R. 355, as amended, or as defined by
13 rules adopted by the commission.

14 "Facility" means any building, structure, installation,
15 equipment, pipe or pipeline (including any pipe into a sewer or
16 publicly-owned treatment works), well, pit, pond, lagoon,
17 impoundment, ditch, landfill, storage container, motor carrier,
18 rolling stock, aircraft, site, or area where a hazardous
19 substance or pollutant or contaminant has been deposited, stored,
20 disposed of, or placed, or otherwise comes to be located. The
21 term does not include any consumer product in consumer use.

22 "Hazardous material" or "hazardous substance" means any
23 hazardous substance as defined in chapter 128D.

1 "HEPCRA" means the Hawaii Emergency Planning and Community
2 Right-to-Know Act.

3 "Person" means an individual, firm, corporation,
4 association, partnership, consortium, joint venture, commercial
5 entity, state, county, commission, or, to the extent the United
6 States or an interstate body is subject to this chapter, the
7 United States or the interstate body.

8 "Release" means any spilling, leaking, pumping, pouring,
9 emitting, emptying, discharging, injecting, escaping, leaching,
10 dumping, or disposing of any hazardous substance, or pollutant or
11 contaminant into the environment, including the abandonment or
12 discarding of barrels, containers, and other closed receptacles
13 containing a hazardous substance, or pollutant or contaminant.

14 The term does not include:

15 (1) Any release that results in the exposure of persons
16 solely within a workplace, with respect to claims that
17 these persons may assert against their employer;

18 (2) Emissions from the engine exhaust of a motor vehicle,
19 rolling stock, aircraft, vessel, or pipeline pumping
20 station engine;

21 (3) Release of a source, by product, or special nuclear
22 material from a nuclear incident, as those terms are
23 defined in the Atomic Energy Act of 1954, as amended,

1 42 U.S.C. §2011 et seq., if this release is subject to
2 requirements with respect to financial protection
3 established by the Nuclear Regulatory Commission under
4 42 U.S.C. §2210;

5 (4) Any release resulting from the normal application of
6 fertilizer;

7 (5) Any release resulting from the legal application of a
8 pesticide product registered under the Federal
9 Insecticide, Fungicide, and Rodenticide Act, as
10 amended; or

11 (6) Any release from sewerage systems collecting and
12 conducting primarily domestic wastewater.

13 "Reportable quantity" means the quantity of a hazardous
14 material stated on the various lists of hazardous substances as
15 defined in chapter 128D.

16 "Threshold planning quantity" means the threshold planning
17 quantity for an "extremely hazardous substance" as defined in 40
18 C.F.R. Part 355.

19 "Toxic chemical" means a substance appearing on the list of
20 chemicals described in section 313 of EPCRA, as set forth in 40
21 C.F.R. Part 372.

22 § -2 Designation and functions of the Hawaii state
23 emergency response commission. (a) There is created the Hawaii
24 state emergency response commission, which shall be placed within

1 the department for administrative purposes and carry out the
2 requirements of this chapter.

3 (b) The commission shall consist of the following members,
4 who shall be appointed by the governor as provided in section 26-
5 34:

- 6 (1) The director of health;
- 7 (2) The chairperson of the board of agriculture;
- 8 (3) The adjutant general;
- 9 (4) The director of labor and industrial relations;
- 10 (5) The chairperson of the board of land and natural
11 resources;
- 12 (6) The director of the office of environmental quality
13 control;
- 14 (7) The director of business, economic development, and
15 tourism;
- 16 (8) The director of transportation;
- 17 (9) The dean of the University of Hawaii school of public
18 health;
- 19 (10) The director of the environmental center of the
20 University of Hawaii;
- 21 (11) One representative from each committee designated by
22 the mayor of each respective county; and
- 23 (12) Other persons appointed by the governor to meet the
24 minimum requirements of EPCRA.

1 (c) A state officer who serves as a member of the
2 commission may designate, in writing, another person to act in
3 place of the officer. The designated person shall have all the
4 powers of a commission member.

5 (d) The director shall be the chairperson of the
6 commission. A vice-chairperson shall be designated by the
7 chairperson to serve in the chairperson's absence. The
8 chairperson or the vice-chairperson may assign, delegate, or
9 transfer tasks, duties, and responsibilities to members of the
10 commission.

11 (e) Commission members shall serve without compensation,
12 but shall be reimbursed for actual and necessary expenses,
13 including travel expenses, incurred in carrying out their duties.

14 (f) Commission and committee support personnel shall be
15 supervised and administered by the chairperson as the primary
16 agent responsible for performing the functions and duties of the
17 commission. The department shall employ such professional,
18 technical, administrative, and other staff personnel as may be
19 deemed necessary to carry out the purposes of this chapter.

20 (g) The commission shall:

21 (1) Carry out the duties and responsibilities of a state
22 emergency response commission as specified in EPCRA;

- 1 (2) Develop state contingency plans relating to the
2 implementation of this chapter;
- 3 (3) Supervise, coordinate, and provide staff support to the
4 committees for the implementation of this chapter and
5 EPCRA;
- 6 (4) Develop a public information, education, and
7 participation program for the public and facility
8 owners covering the requirements of this chapter, and
9 the interpretation of the chemical information
10 collected pursuant to this chapter and the risks that
11 these chemicals pose to the public health and
12 environment;
- 13 (5) Appoint the members of the committees;
- 14 (6) Develop a state chemical inventory form to be used in
15 lieu of the federal Tier II form and chemical list
16 requirements; and
- 17 (7) Do all other things necessary for the implementation of
18 this chapter and the requirements of EPCRA.
- 19 § -3 Powers; rulemaking; appointment of hearing officers.
- 20 (a) The commission may adopt rules in accordance with chapter 91
21 to implement this chapter. The rules shall include, but not be
22 limited to, requirements for reporting releases. Any person
23 heard at a public hearing on the adoption of any rule shall be

1 given written notice of the action taken by the commission with
2 respect to the rule.

3 (b) In addition to other specific powers provided in this
4 chapter, the commission may appoint, without regard to chapters
5 76 and 77, hearing officers to conduct public participation
6 activities, including public hearings and public informational
7 meetings.

8 § -4 Establishment of emergency planning districts. Each
9 county is designated as an emergency planning district for the
10 purposes of this chapter; provided that the department shall be
11 responsible for Kalawao county.

12 § -5 Establishment and functions of local emergency
13 planning committees. (a) A minimum of one local emergency
14 planning committee shall be established in each county. The
15 committee shall be subject to the requirements of this chapter
16 and section 303 of EPCRA, 42 U.S.C. §11003.

17 (b) The members of a committee shall be appointed by the
18 commission, based upon the recommendations of the respective
19 mayor of a county. The list of recommended persons shall contain
20 at least one person from each of the groups listed in subsection
21 (c). The commission may reject any recommendation made by the
22 mayor of a county and appoint persons who did not receive a
23 recommendation from the mayor.

1 (c) A committee shall be composed of at least one person
2 from each of the following groups:

3 (1) Elected state and county officials;

4 (2) Law enforcement, first aid, health, environmental,
5 hospital, and transportation personnel;

6 (3) Firefighting personnel;

7 (4) Civil defense and emergency management personnel;

8 (5) Broadcast and print media personnel;

9 (6) Community groups not affiliated with emergency service
10 groups;

11 (7) Owners and operators of facilities subject to the
12 requirements of EPCRA; and

13 (8) Other groups recommended by the mayor and appointed by
14 the commission.

15 (d) Not more than sixty days after the occurrence of a
16 vacancy, the commission, based upon the recommendations of the
17 mayor, shall appoint a successor member to the committee, unless
18 the requirements of subsection (c) have been fulfilled.

19 (e) Upon the failure of the mayor of a county to submit a
20 list of nominees to the commission not more than forty-five days
21 after notice of a vacancy, the commission shall make the
22 appointment on its own initiative unless the requirements of
23 subsection (c) have been fulfilled.

- 1 (f) Each committee shall:
- 2 (1) Adopt bylaws and other administrative procedures to
- 3 carry out the duties, requirements, and
- 4 responsibilities set forth in this chapter, and as
- 5 required by the commission and EPCRA;
- 6 (2) Take appropriate actions to ensure the preparation,
- 7 implementation, and annual update and review of the
- 8 local emergency response plan required by this chapter
- 9 and EPCRA. The local emergency response plans shall
- 10 include, but not be limited to, the following:
- 11 (A) Identification of each facility subject to the
- 12 requirements of section 303 of EPCRA, 42 U.S.C.
- 13 §11003 and within the emergency planning district;
- 14 identification of routes likely to be used for the
- 15 transportation of substances on the list of
- 16 extremely hazardous substances; and identification
- 17 of additional facilities contributing or subjected
- 18 to additional risk due to their proximity to
- 19 facilities subject to the requirements of this
- 20 section, such as hospitals or natural gas
- 21 facilities;
- 22 (B) Methods and procedures to be followed by facility
- 23 owners and operators and local emergency and

- 1 medical personnel in responding to any release of
2 these substances;
- 3 (C) Designation of a community emergency coordinator
4 and facility emergency coordinators, who shall
5 make determinations necessary to implement the
6 plan;
- 7 (D) Procedures providing reliable, effective, and
8 timely notification by facility emergency
9 coordinators and the community emergency
10 coordinator to persons designated in the emergency
11 plan, and the public, that a release has occurred,
12 consistent with the notification requirements of
13 this chapter and section 304 of EPCRA, 42 U.S.C.
14 §11004;
- 15 (E) Methods for determining the occurrence of a
16 release, and the area or population likely to be
17 affected by the release;
- 18 (F) A description of emergency equipment and
19 facilities in the county and at each facility in
20 the county subject to the requirements of this
21 section, and the identification of the persons
22 responsible for the equipment and facilities;

- 1 (G) Evacuation plans, including provisions for
- 2 precautionary evacuation and alternate traffic
- 3 routes;
- 4 (H) Training programs, including schedules for
- 5 training of local emergency response and medical
- 6 personnel; and
- 7 (I) Methods and schedules for exercising the emergency
- 8 plan;
- 9 (3) Request additional information from the facilities, if
- 10 necessary, to develop emergency response plans;
- 11 (4) Submit local emergency response plans to the commission
- 12 for review, and to other affected agencies upon
- 13 request;
- 14 (5) Report to the commission on alleged violations of this
- 15 chapter;
- 16 (6) Prepare reports, recommendations, and other information
- 17 related to the implementation of this chapter, as
- 18 requested by the commission;
- 19 (7) Have the primary responsibility for receiving,
- 20 processing, and managing hazardous chemical information
- 21 forms and data, trade secrets, and public information
- 22 requests pursuant to this chapter;

1 (8) Accept and deposit into the state treasury any grants,
2 gifts, or other funds received for the purpose of
3 carrying out this chapter; and

4 (9) Evaluate the need for resources necessary to develop,
5 implement, and exercise the emergency plan, and make
6 recommendations with respect to additional resources
7 that may be required and the means for providing these
8 additional resources.

9 (g) The administrative and operational expenses of a
10 committee may be paid by the State.

11 § -6 Reporting requirements. (a) The owner or operator
12 of a facility in the State that stores, uses, or manufactures any
13 hazardous substance shall comply with the following requirements:

14 (1) Each owner or operator of a facility in the State shall
15 comply with the emergency planning and notification
16 requirements of sections 302 and 303 of EPCRA, 42
17 U.S.C. §§11002 and 11003, if an extremely hazardous
18 substance is present at the facility in an amount in
19 excess of the threshold planning quantity established
20 for the substance;

21 (2) Each owner or operator of a facility in this State that
22 is required to prepare or have available a material
23 safety data sheet for a hazardous chemical under the

1 Occupational Safety and Health Act of 1970, as amended,
2 15 U.S.C. §651 et seq., and regulations promulgated
3 under that Act, for all hazardous substances present at
4 the facility in amounts not less than 10,000 pounds,
5 and extremely hazardous substances present at the
6 facility in amounts not less than 500 pounds, or the
7 threshold planning quantity for that substance,
8 whichever is less, shall comply with the following
9 reporting requirements:

- 10 (A) Complete a chemical list by March 1 of each year
11 and submit material safety data sheets not more
12 than thirty days after a request;
- 13 (B) Complete the state chemical inventory form by
14 March 1 of each year; provided that a Tier II list
15 shall be used until a state form is available;
- 16 (C) Submit facility diagrams and location area maps by
17 March 1 of each year, and update the maps annually
18 as needed; and
- 19 (D) Upon request, submit emergency response plans
20 required under state or federal law.

21 The information described in subparagraphs (A) through
22 (D) shall be submitted to the commission, the
23 respective committee, and the fire department upon
24 request by the same;

- 1 (3) Each owner or operator of a facility in this State that
2 is subject to section 313 of EPCRA, 42 U.S.C. §11023,
3 shall comply with the toxic chemical release form
4 requirements of section 323 of EPCRA by July 1 of each
5 year; and
- 6 (4) Each owner or operator of a facility in this State
7 covered under section 304 of EPCRA, 42 U.S.C. §11004,
8 shall comply with the notification requirements of
9 section 304 of EPCRA, and section -7, if a release
10 of an extremely hazardous substance occurs from the
11 facility.
- 12 (b) The commission shall adopt rules in accordance with
13 chapter 91 establishing the specific information required on the
14 state chemical inventory form. The chemical inventory form shall
15 facilitate ease in complying with the requirements of HEPCRA by
16 consolidating the necessary information into one form. The
17 chemical inventory form may include, but is not limited to:
- 18 (1) The chemical name;
19 (2) Quantity stored on the site;
20 (3) Hazardous components;
21 (4) Health and physical hazards; and
22 (5) Storage information.

1 § -7 Emergency notification requirements. The commission
2 shall adopt rules in accordance with chapter 91 establishing the
3 contents of hazardous substance release reports. The rules shall
4 address, but are not limited to, the following:

5 (1) The quantities of designated hazardous substances that
6 are deemed reportable pursuant to this chapter when
7 released;

8 (2) The specific periods of time within which these
9 quantities are deemed reportable pursuant to this
10 chapter after being released;

11 (3) The agencies to which reports of releases must be made;
12 and

13 (4) The format in which the release is to be reported.

14 § -8 Funds for operation. (a) All moneys to meet the
15 general operating needs and expenses of the emergency planning
16 and community right-to-know program of the department shall be
17 allocated by the legislature through appropriations out of the
18 state general fund. The department shall include in its
19 budgetary request for each upcoming fiscal period, the amounts
20 necessary to effectuate the purposes of this chapter.

21 (b) The department of health, with the assistance of the
22 department of budget and finance and department of accounting and
23 general services, shall prepare a report for the legislature

1 concerning the amount of moneys collected during the preceding
2 fiscal year, the amount of moneys collected to date during the
3 current fiscal year, and the amount of moneys to be collected
4 during the upcoming fiscal year, pursuant to sections -9 and
5 -11, and accruing to the credit of the state general fund.
6 The department shall submit the foregoing report to the
7 legislature not less than twenty days prior to the convening of
8 each regular session of the legislature.

9 § -9 Filing fees. Facilities that are required to report
10 according to section -6(a)(2), shall remit \$100 with each
11 submission of chemical inventory forms or Tier II forms to the
12 commission by March 1 of each year. All moneys collected by the
13 department pursuant to this section shall be deposited in the
14 state treasury and accrue to the credit of the state general
15 fund.

16 § -10 Immunity from civil liability. (a) No employee,
17 representative, or agent of a state or county agency, or persons
18 requested by a state or county agency to engage in any emergency
19 service or response activities involving a hazardous material
20 release at a facility or transportation accident site, shall be
21 liable for the death of or any injury to persons, or the loss of
22 or damage to property, resulting from that hazardous material
23 release, except for any acts or omissions that constitute wilful
24 misconduct.

1 (b) No commission or committee member shall be liable for
2 the death of or any injury to persons, the loss of or damage to
3 property, or any civil damages, resulting from any act or
4 omission arising out of the performance of the functions, duties,
5 and responsibilities of the commission or a committee, except for
6 acts or omissions that constitute wilful misconduct.

7 § -11 Penalties and fines. (a) Any person who violates
8 any of the emergency reporting, planning, or notification
9 requirements of sections -6 or -7, or fails to pay the fees
10 required by section -9, shall be subject to a civil penalty of
11 not less than \$1,000 but not more than \$25,000 for each separate
12 offense. Each day of each violation shall constitute a separate
13 offense.

14 (b) Any person who:

15 (1) Knowingly fails to report the release of a hazardous
16 substance or extremely hazardous substance, as required
17 by section -7, shall be guilty of a misdemeanor and,
18 upon conviction, be fined not less than \$1,000 but not
19 more than \$25,000 for each separate offense, or
20 imprisoned for not more than one year, or both. For
21 the purposes of this paragraph, each day of each
22 violation shall constitute a separate offense; or

1 (2) Intentionally obstructs or impairs, by force, violence,
2 physical interference, or obstacle, a representative of
3 the department, a hazardous materials response team, or
4 a committee attempting to perform the duties and
5 functions set forth in section -5, shall be guilty
6 of a misdemeanor and, upon conviction, be fined not
7 less than \$5,000 but not more than \$25,000 for each
8 separate offense, or be imprisoned for not more than
9 one year, or both.

10 (c) All moneys collected under this section shall be
11 deposited in the state treasury and accrue to the credit of the
12 state general fund.

13 § -12 Enforcement. If the commission determines that any
14 person has violated or is violating this chapter, or any rule
15 adopted pursuant to this chapter, the commission:

16 (1) Shall cause written notice to be served upon the
17 alleged violator or violators. The notice shall
18 specify the alleged violation and may contain an order
19 specifying a reasonable time during which the facility
20 shall submit the required reports, forms, and
21 notifications;

22 (2) May require the alleged violator or violators to appear
23 before the commission for a hearing at a time and place

1 specified in the notice or to be set later, and to
2 answer the charges complained of; and

3 (3) May impose penalties as provided in section -11 by
4 sending a written notice describing the violation,
5 either by certified mail or personal service, to the
6 alleged violator or violators.

7 § -13 Relationship to other laws: (a) This chapter
8 shall be read in conjunction with the federal statutes and
9 regulations providing for the identification, labeling, and
10 reporting of information concerning hazardous material releases,
11 and any other health and safety provisions relating to hazardous
12 materials, and is intended to supplement federal statutes and
13 regulations in the interest of protecting the health and safety
14 of the citizens of the State.

15 (b) Nothing in this chapter shall affect or modify in any
16 way the obligations or liabilities of any person under other laws
17 of the State.

18 (c) This chapter shall preempt any ordinances passed or
19 adopted by any county that are effective on, before, or after the
20 effective date of this chapter, to the extent that these
21 ordinances conflict or are inconsistent with the provisions of
22 this chapter."

1 PART II

2 SECTION 2. Chapter 243, Hawaii Revised Statutes, is amended
3 by adding a new section to be appropriately designated and to
4 read as follows:

5 "§243- Environmental response tax. (a) In addition to
6 any other taxes provided by law, subject to the exemptions set
7 forth in section 243-7, there is hereby imposed at times provided
8 in section 128D-2 a state environmental response tax of 5 cents
9 on each barrel or fractional part of a barrel of petroleum
10 product sold by a distributor to any retail dealer or end user,
11 other than a refiner, of petroleum product. The tax imposed by
12 this subsection shall be paid by the distributor of the petroleum
13 product.

14 (b) Each distributor subject to the tax imposed by
15 subsection (a), on or before the last day of each calendar month,
16 shall file with the director, on forms prescribed, prepared, and
17 furnished by the director, a return statement of the tax under
18 this section for which the distributor is liable for the
19 preceding month. The form and payment of the tax shall be
20 transmitted to the department of taxation in the appropriate
21 district.

22 (c) Notwithstanding section 248-8 to the contrary, the
23 environmental response tax collected under this section shall be

1 paid over to the director of finance for deposit into the
2 environmental response revolving fund established by section
3 128D-2.

4 (d) Every distributor shall keep in the State and preserve
5 for five years a record in such form as the department of
6 taxation shall prescribe showing the total number of barrels and
7 the fractional part of barrels of petroleum product sold by the
8 distributor during any calendar month. The record shall show
9 such other data and figures relevant to the enforcement and
10 administration of this chapter as the department may require."

11 SECTION 3. Section 243-1, Hawaii Revised Statutes, is
12 amended by adding four new definitions to be appropriately
13 inserted and to read as follows:

14 "Barrel" means forty-two United States gallons of crude oil
15 or petroleum product.

16 "Crude oil" means petroleum in an unrefined state or natural
17 state, including condensates and natural gasoline.

18 "End user" means any person or government entity who
19 acquires petroleum products for their own use and not for resale.

20 "Petroleum product" means any liquid hydrocarbon at standard
21 temperature and pressure that is the product of the
22 fractionalization, distillation, or other refining or processing
23 of crude oil."

1 SECTION 4. Section 128D-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§128D-2 Environmental response revolving fund. (a) There
4 is created within the state treasury an environmental response
5 revolving fund [within the department], which shall consist of
6 moneys appropriated to the fund by the legislature, moneys paid
7 to the fund as a result of departmental compliance proceedings,
8 moneys paid to the fund pursuant to court-ordered awards or
9 judgments, moneys paid to the fund in court-approved or
10 out-of-court settlements, all interest attributable to investment
11 of money deposited in the fund, moneys generated by the
12 environmental response tax established in section 243- , and
13 moneys allotted to the fund from other sources; provided that
14 when [deposits of fines and penalties pursuant to sections
15 342B-50, 342D-39, 342F-11.5, 342H-10.5, 342J-10.5, and 342N-9.5
16 exceed \$3,000,000, that amount of deposited fines and penalties
17 in excess of \$3,000,000 shall be transferred to the general
18 fund.] the total balance of the fund exceeds \$7,000,000, the
19 department of health shall notify the department of taxation of
20 this fact in writing within ten days. The department of taxation
21 then shall notify all distributors liable for collecting the tax
22 imposed by section 243- of this fact in writing, and the
23 imposition of the tax shall be discontinued beginning the first

1 day of the second month following the month in which notice is
2 given to the department of taxation. If the total balance of the
3 fund thereafter declines to less than \$3,000,000, the department
4 of health shall notify the department of taxation which then
5 shall notify all distributors liable for collecting the tax
6 imposed by section 243- of this fact in writing, and the
7 imposition of the tax shall be reinstated beginning the first day
8 of the second month following the month in which notice is given
9 to the department of taxation.

10 (b) Moneys from the fund shall be expended by the
11 department for response actions, including removal and remedial
12 actions, consistent with this chapter[.]; provided that the
13 revenues generated by the "environmental response tax" and
14 deposited into the environmental response revolving fund:

15 (1) Shall be used:

16 (A) For oil spill planning, prevention, preparedness,
17 education, research, training, removal, and
18 remediation; and

19 (B) For direct support for county used oil recycling
20 programs;

21 and

22 (2) May also be used to address concerns related to
23 underground storage tanks, including support for the

3/10/93
4/7/93 ✓

HAWAII STATE EMERGENCY RESPONSE COMMISSION
MEETING #15 16

MARCH 12, 1992
9:00 a.m. - 12:00 noon

DEPARTMENT OF HEALTH'S
KINAU HALE 1ST FLOOR CONFERENCE ROOM

MEMBERS PRESENT

_____ John C. Lewin, Director
DOH

_____ Bruce S. Anderson, DDEH
DOH

_____ Major General Richardson
Adjutant General, DOD or
Representative
(_____)

_____ Jiggie Hommon, Manager
American Red Cross or
Representative
(_____)

_____ Yukio Kitagawa, Director
BOA or Representative
(_____)

Keith Ahue
_____ ~~William W. Paty~~, Director
DLNR or Representative
(_____)

Dayton Nakanelua
_____ ~~Keith Ahue~~, Director
DLIR or Representative
(_____)

_____ Rex D. Johnson, Director,
DOT or Representative
(_____)

_____ Mufi Hanneman, Director
DBEDT or Representative
(_____)

Malcolm Sussak
_____ ~~George Kekuna~~, LEPC
Coordinator or Representative
(_____)

_____ Brian Choy, Director
OEQC or Representative
(_____)

_____ Sel Menor, LEPC Co-Chair
Maui CD or Representative
(_____)

_____ B. Z. Siegel, Dean
School of Public Health, UH
or Representative
(_____)

_____ Clifford Ikeda, LEPC Co-Chair
Kauai CD or Representative
(_____)

_____ Harry Kim, LEPC Chair
Hawaii CD or Representative
(_____)

as of March 16th New Directors

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
E0405ly.i1

April 22, 1993

To: The Hawaii State Emergency Response Commission Members

From: **FOR** John C. Lewin, M.D. *John C. Lewin*
Director of Health

Subject: Notice for Hawaii State Emergency Response Commission Meeting #16

This is to invite you to attend the next meeting of the Hawaii State Emergency Response Commission (HSERC) to be held on Thursday May 13, 1993, 9:00 a.m. to 12:00 p.m. The meeting will be held at the Kinau Hale, First Floor Board Room, at 1250 Punchbowl Street. Topics to be discussed include Hawaii EPCRA Bill and HSERC training requirements by Hawaii Occupational Safety and Health Branch.

Please find enclosed a copy of the HSERC Meeting #16 Agenda, Draft Meeting Summary from HSERC Meeting #15, and the Final Meeting Summary for HSERC Meeting #14. Parking permits near Kinau Hale have been requested for the commission members. We will be kept informed regarding the status of the permits. If you have any questions, please contact Laura Young at 586-4353.

Enclosure

1. Agenda
2. HSERC Draft Meeting Summary March 12, 1993
3. HSERC Final Meeting Summary December 11, 1992

circulated ethylene oxide into undetermined areas of Kauai Veterans Hospital. The Kauai Fire Department was first notified followed by State District Health Officers, who called Hazard Evaluation and Emergency Response Office.

Telephone conversations between the Kauai Fire Department (On-Scene Incident Commander) and the Oahu Department of Health informed one another of the situation. Permission to re-enter the hospital facilities was determined by the Kauai Veterans Hospital Administrator.

The question was raised if the administrator had the authority to determine the building was safe to re-enter, and who has the authority or can actually determine who should take the responsibility of to declaring the building safe to enter for staff/public.

There are a number of chemicals (i.e. ethylene oxide) that are not classified or listed by EPA as a extremely hazardous substance. In addition some are under the reportable threshold quantity. Because of this, facilities are not mandated to report these non-classified hazardous substance or those under the reportable threshold quantity.

The HSERC needs to place the proper authorities with the statutes, then through the rule-making process establish locally reportable chemicals that is ^{are} over and ~~above~~ the EPAs list. This would then mandate local reporting.

Joe Blackburn reports facility owners give after-the fact reports of hazardous substances releases. Fire Department are not involved with monitoring or clean up processes. Although facility owners notify the National Response Center, local notification does not occur.

The Department of Labor and Industrial Relations requests agencies receiving notification of hazardous substance releases (that pose a danger to employees) notify DLIR. DLIR will then have an opportunity to see if the facility has an Emergency Response Plan Manual, are all users of the hazardous substances trained for emergency response, are emergency response procedures are being implemented and post-release procedures.

DOD. Al Kary gave a summary of the HMIRSA grant letters were requested by Harry Kim + Sel Minor to the respective County mayors to reactivate the LEPC in those Counties

Dr. Kimm also stated that a key disease followup letter be sent to the military - request to train

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 2, 1993

MEETING SUMMARY
HAWAII STATE EMERGENCY RESPONSE COMMISSION
MEETING #15

Friday, March 12, 1993
9:00 a.m. - 12:00 p.m.

Department of Health
Kinau Hale Board Room, 1st Floor
1250 Punchbowl Street
Honolulu, Hawaii 96813

HSERC Commission Members and Representatives

John C. Lewin, M.D., Chair, HSERC, DOH
Bruce S. Anderson, Ph.D., Vice Chair, HSERC, DOH
Alden Kang for Major General Edward Richardson, DOD
Gerald Kinro for Yukio Kitagawa, BOA
Russell Charlton for Keith Ahue, DLIR
Tom Smyth for Mufi Hannemann, DBEDT
Walter Patrick for B.Z. Siegel, UH-SPH
Jiggie Hommon, American Red Cross, Hawaii State Chapter
Chris Takeno for George Kekuna, Honolulu LEPC Representative
Clifford Ikeda, Kauai LEPC Representative
Sel Menor, Maui LEPC Representative
Harry Kim, Hawaii LEPC Representative

Other Attendees

Joseph Blackburn
Alejandro Lomosad, Kauai FD
Michael Choy, HECO
Jim Vinton, BHPPA
Kathy Ho, AG

Eugene Lee, City DPW
James Bac, DBEDT
Steven Armann, DOH
Rhonda Goyke, DOH
Laura Young, DOH
Mike Cripps, DOH

I. Call to Order

The 15th meeting of the HSERC was called to order by Dr. Bruce S. Anderson at 9:15 a.m.

A. OPENING REMARKS

Rhonda Goyke will be moving to the position of On-Scene Coordinator. Laura Young will be replacing her and assuming HSERC and EPCRA responsibilities.

EPA is sponsoring an EPCRA workshop on March 18, 1993. The Honolulu Fire Department, Department of Defense, and Hazard Evaluation and Emergency Response Office will be conducting the morning session. Stan Kallo from Toxic Release Inventory will be conducting afternoon session regarding Form R completion and Inventory and Spill Reporting. For further information, see Laura or Rhonda.

Disaster Management Workshop sponsored by the University of Hawaii, School of Public Health will be held on 4/14/93, free, full day. For more information contact Dr. Walter Patrick at the School of Public Health.

B. Approval of Minutes from HSERC Meeting #14.

Minutes were approved without changes.

II. UPDATE FROM ATTORNEY GENERALS OFFICE

Kathy Ho, Deputy Attorney will be attending all future HSERC meetings. Present all commission issues in need of clarification to Kathy Ho.

Issue 1:

Captain Blackburn presented an incident where supplies/equipment used for emergency response was denied reimbursement. From the ensuing discussion questions arose as to what are the authorized expenditures under the Environmental Response Fund?

Steve Armann stated that there are no set procedures under 128D.

Dr. Anderson requested that research be conducted by Kathy Ho on what are authorized expenditures under the Environmental Response Law and to present findings at the next HSERC meeting.

Issue 2:

Since the LEPCs are considered state entities, are the LEPCs covered under the AGs office? Will the AGs office represent them in commission activities?

Issue 3:

Under the EPCRA Bill, penalties are stated, however, there is no current enforcement process in place. How can the city, county, and state agencies ensure facility owners are in compliance when there is no enforcement measures in effect? What type of system can be used, i.e. warning/citation?

III. UPDATE OF LEGISLATURE

Two Bills presented to the Legislature are still intact. The Senate has deleted special funds. The bill has been amended to include filing fees (\$100 per Tier II or facility) deposited into the general fund. To recover funds the State will need to submit budget package to Legislatures.

HB 1653 fee and special fund still intact. Total amount of revenues amount to \$ 60,000 for one staff person. This is a minimal amount covering only the bare necessities.

Commission members who would like to be notified of upcoming hearing contact Steve Armann at 586-4249 for hearing dates and times.

IV. ETHYLENE OXIDE RELEASE ON KAUAI-Mike Cripps

Agencies who would like to present emergency response incidents at future HSERC meetings are welcomed. Notify Laura Young.

On January 14, 1993, Kauai Veterans Hospital experienced a release of ethylene oxide. One employee of the hospital was hospitalized. Symptoms ranged from skin irritation, respiratory difficulties, and nausea. Evacuation procedures took place when air conditioning units circulated ethylene oxide into undetermined areas of Kauai Veterans Hospital. The Kauai Fire Department was first notified followed by State District Health Officers, who called Hazard Evaluation and Emergency Response Office.

Telephone conversations between the Kauai Fire Department (On-Scene Incident Commander) and Mike Cripps (HEER) informed one another of the situation. Permission to re-enter the hospital facilities was determined by the Kauai Veterans Hospital Administrator.

The question was raised if the administrator had the authority to determine the building was safe to re-enter, and who has the authority or can actually determine who should take the responsibility of declaring the building safe to enter for staff/public.

There are a number of chemicals (i.e. ethylene oxide) that are not classified or listed by EPA as a extremely hazardous substance. In addition some are under the reportable threshold quantity. Because of this, facilities are not mandated to report these non-classified hazardous substance or those under the reportable threshold quantity.

The HSERC needs to place the proper authorities with the statutes, then through the rule-making process establish locally reportable chemicals that is over and above the EPAs list. This would then mandate local reporting.

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The Department of Labor and Industrial Relations requests agencies receiving notification of hazardous substance releases (that pose danger to employees) notify DLIR. DLIR will then have an opportunity to see if the facility has an Emergency Response Plan Manual, are all users of the hazardous substances trained for emergency response, are emergency response procedures being implemented and post-release procedures.

IV. HMTUSA GRANT UPDATE/REVIEW

The State of Hawaii maximum allocation for planning \$32,000 and \$38,000 for training, Hawaii is number 48 in pecking order, grants are on reimbursable basis, 20% soft match requirement, 75% planning grant must be given or be used directly for the LEPCs and 75% of training grant must go to the training of public employees. Grant allocation to be announced April 1, 1993.

V. Closing Announcements

Next HSERC meeting to be scheduled after end of current legislative session.

Dr. Lewin requested that everyone assist in supporting SB 1410 and SB 1653 by attending legislative hearings or contacting appropriate parties.

Harry Kim requested a letter from Dr. Lewin to the Mayor of Hawaii County for the nomination of LEPC members. Sel Menor also requested a letter for Maui County LEPC nominations. Clifford Ikeda stated that a letter was not needed for Kauai County.

Dr. Lewin will also send a letter to the appropriate persons on Kauai to remind the military to meet of their commitment to assist in emergency planning in the event of a hydrazine release. The military agreed to;

- 1) provide emergency training
- 2) allow the County of Kauai to review the hydrazine emergency response plan prepared by the military
- 3) to provide equipment as needed to implement the emergency response plan.

The motion was made and passed that the following items were to be addressed by the HEER staff?

1. Prepare draft legislation to establish through rule-making process a list of chemicals that we do not want in the state. Or manner to reduce the source of hazardous substances entering Hawaii.
2. Research means to process permits for undesirable hazardous substances, with a fee based on degree of danger and amount

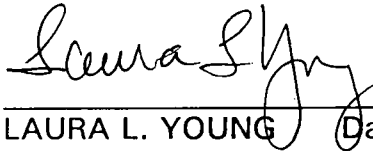
of substances. Include in permit fee proviso for public health and safety.

3. Prepare draft legislation to establish through rule-making process the means in which county and state agency are notified of hazardous chemicals.

The motion was mad to adjourn the meeting at 11:30 am. The motion was passed.

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

Respectfully submitted

 1/2/93

LAURA L. YOUNG Date