

MAINE STATE LEGISLATURE

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PRELIMINARY REPORT
of the
CITIZENS' CIVIL EMERGENCY COMMISSION
to the
SECOND REGULAR SESSION
of the
111TH LEGISLATURE

April 1984

MEMBERS:

Rep. Tom Andrews (Chair)
Sen. Judy Kany
Leslie Higgins
James Maier, M.D.
Julian Orr
Eileen Roach
Betsy Sweet
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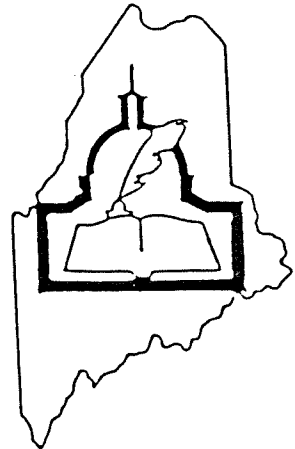


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I. INTRODUCTION

This is the preliminary report of the Citizens' Civil Emergency Commission. It is being presented to the Second Regular Session of the 111th Legislature, the Governor and other interested officials in accordance with the provisions of PL 1983, chapter 516, "AN ACT to Assure Public Awareness of Nuclear Civil Protection Plans for Maine." That law established the Commission to review civil protection plans that are designed to protect the civilian population from the effects of nuclear weapons attack. (A copy of the law creating the Commission is attached at Appendix A.)

This report describes the creation of the Commission by the First Regular Session of the 111th Legislature in 1983, outlines the deliberations of the Commission, summarizes the comments at public hearings held in four communities and presents the preliminary findings and recommendations of the Commission.

The findings are based on the research and deliberations of the Commission, the comments received at the public hearings and additional comments submitted following the hearings. The agenda for further action recommended in this preliminary report calls for study, review and consideration of specific issues by the Commission. The Commission will complete those tasks this summer and fall. The final report will be presented for consideration by the First Regular Session of the 112th Legislature.

II. COMMISSION FINDINGS

As a result of its deliberations since February, the four public hearings held in March and written comments received by members, the Commission makes the following preliminary findings:

Finding

The great majority of those who spoke at the hearings stated that in their opinion there could be no effective protection against either the short or long term effects of a nuclear attack. Because of this, many of them concluded that nuclear civil protection planning is a misuse of public funds, is misleading and contributes to a dangerous military posture.

Finding

Many of the people who opposed nuclear civil protection planning objected to spending money for such planning, as part of either a specific or comprehensive planning approach. Many opponents advocated future alternative uses for the money which up to now has been spent on nuclear civil emergency planning. The most frequently suggested alternative was to use the money for public education about the effects of nuclear war and the means of preventing nuclear war.

Finding

In the areas where the four public hearings were held, there is a significant amount of public interest on the subject of nuclear civil protection planning. That interest is evidenced by the number of people attending the hearings, the distance some people travelled to testify, the amount of testimony offered at the public hearings and the number of letters and calls Commission members and staff have received.

There also appears to be considerable interest in having public hearings for other Risk Areas. That interest is demonstrated by the fact several people travelled 100 miles to the Bangor hearing to testify to the need for a hearing in the Cutler area. The Commission has also received a petition from Kittery residents requesting a public hearing for the Kittery-Portsmouth area. In addition Commission members have received numerous calls and letters from residents of the risk areas in which

hearings were not held asking that hearings be held in their communities.

Finding

The pertinent details of present nuclear civil protection plans (and possibly other types of civil emergency plans) are not readily available to members of the public. The whole plan is available only for viewing at local or state civil emergency preparedness offices during limited hours. Except for the Limestone Risk Area, no plan summaries are available for general distribution. Elements of the Limestone plan are published in the phone book as part of a federal government pilot project.

Finding

The overwhelming majority of people who spoke at the public hearings felt that nuclear attack is a significantly different and potentially much more disastrous hazard than other natural and man-made hazards. The Integrated Emergency Management System (IEMS), which was described at each hearing, is beginning to be implemented at the direction of the federal government. IEMS purports to plan for all civil emergencies (of which nuclear attack is one) on a broad functional basis. Testimony at the public hearings supported the concept of comprehensive planning for natural and most man-made disasters. However, the testimony clearly opposed nuclear civil protection planning, whether addressed in a specific plan for nuclear attack or in a comprehensive plan for all hazards. Many people felt it is misleading to categorize the nuclear attack hazard as just one of many possible risks to be addressed in the general planning process.

Finding

During its deliberations and review of nuclear civil protection plans, the Commission was disappointed by the lack of cooperation it received from the State Bureau of Civil Emergency Preparedness (BCEP) and some local CEP officials. On the whole, many of those who are responsible for developing

the plans and with preparing various departments, agencies and the general public to implement them appeared less than willing to cooperate with the Commission in its efforts to present information on the plans to the public. This raises two questions in the minds of Commission members: "What is the responsibility of CEP officials to involve the public (both individual citizens and various departments, agencies and other providers of emergency services) in the planning process?" and "Who ensures that the responsibility is being fulfilled?"

III. COMMISSION AGENDA FOR ACTION

The Commission will complete a final report and present it to the Governor, the Legislature and other interested persons. That report will contain the Commission's final recommendations and will be presented by January 15, 1985.

In the preparation of that report the Commission will pursue the following course of action:

- A. Hold public hearings for other risk areas, if funding is available. Cutler and Kittery are considered high priorities; Lewiston/Auburn and Augusta are other possibilities.
- B. Study and monitor the IEMS planning process to determine how nuclear civil protection planning will be addressed with the purpose of determining whether the risk of nuclear attack is understood for what it truly is and whether the assumptions on which a decision to plan for that risk is made are realistic.
- C. Review federal law, regulation and policies to determine how much flexibility the State and municipalities have to decide which hazards to plan for and how to spend federal money allocated for planning purposes.

D. Investigate appropriate avenues for public participation in the IEMS process.

E. Study the possibilities for increasing public education concerning the effects and prevention of nuclear war.

F. Investigate methods by which the public can be better informed of civil protection plans and the planning process.

IV. THE COMMISSION

A. Legislative History

The Citizens' Civil Emergency Commission was created because the Legislature had found that plans had been developed to prepare for response to a nuclear attack on the State, but that many Maine residents were not aware of the plans and had not been given adequate opportunity for questions and comments.

The purpose of the Commission was to review existing nuclear civil protection plans for Maine and to hold public hearings in various risk areas around the state. Its charge was also to encourage public discussion of the plans and report its findings and recommendations to the Governor, Legislature and appropriate counties. The Commission was also responsible for approving the informational materials presented at the public hearings to insure that all viewpoints were represented at the public hearings.

The original Legislative Document submitted to the 111th Legislature provided for a 14 member commission and a schedule of 16 public hearings. The bill was assigned to the Joint Standing Committee on Aging, Retirement and Veterans. During its deliberations, the Aging, Retirement and Veterans (ARV) Committee was aware of the expressed need for the public to be aware of and to have a way of participating in the planning for a nuclear attack,

on the one hand, and of the need to economize within state government, on the other. The Committee held a hearing on the original bill and several work sessions to prepare a revised bill.

Throughout the Committee's deliberations criticism of the bill was presented by the State Bureau of Civil Emergency Preparedness. Its arguments addressed the Commission's potential conflict with Federal Emergency Management Agency (FEMA) regulations, the amount of staff effort needed for implementation, the composition of the commission and the possibility of the State and local communities losing control of and input into the planning process. Taking those criticisms into consideration, the ARV Committee reported out a substantially revised bill.

The new bill called for a 9 member commission, 7 of whom were to be appointed by the Governor and 1 each by the President of the Senate and Speaker of the House. The members each would serve 2 year terms and elect a chairman from among themselves. The Commission would terminate automatically on June 30, 1985, unless continued by law. The new bill also called for public hearings be held in 4 of the 8 designated risk areas in the State. Each public hearing was to be conducted so as to provide information to the public on the nuclear civil protection plan for that risk area and the effects of nuclear attack on the risk area. The hearings were designed to gather public reaction to the plans for each risk area. A report was to be prepared by the Commission which calls for recommendations, including the Commission's future status.

The bill reported out by the ARV Committee with a majority "Ought to Pass" recommendation was enacted by the Legislature and signed into law by the Governor on June 28, 1983.

B. Appointment of Commission Members

Representative Tom Andrews and Senator Judy Kany, were appointed as

the Commission's legislative members in July 1983. Six public members were appointed on December 29, 1983. They are as follows:

Leslie Higgins of Bath

James Maier, M.D., of Portland

Julian Orr of Stetson

Eileen Roach of York Harbor

Betsy Sweet of Augusta

Barry Valentine of Portland

The seventh public member has yet to be appointed; and the Commission has operated as an eight member body since December 29th.

C. Commission Meetings and Deliberations

The Commission held its first meeting on January 23, 1984, in Augusta. During the next month and a half, six additional meetings were held, all in Augusta. Four public hearings were held in mid-March. Following the public hearings, two more meetings were held in early April to assess the outcome of the hearings and to prepare this report.

During its initial meetings, the Commission elected a chairperson reviewed its legislative charge, established a timetable for completion of its work, selected sites for the public hearings, met with the Director and planners from the State Bureau of Civil Emergency Preparedness to discuss the status of nuclear civil protection planning in Maine, prepared summaries of the existing plans for distribution at the hearings, reviewed written and video materials portraying various perspectives on nuclear civil protection planning, selected and acquired materials for distribution at the hearings, arranged for publication of notice of the hearings, negotiated with BCEP and FEMA concerning participation of Bureau staff at the hearings, established an agenda and procedural format for the conduct of

the hearings, developed a ballot and voting procedure to be used to conduct non-binding poll, and held a press conference to announce the hearings.

D. Establishment of Public Hearing Schedule and Procedures

By law the Commission was required to hold public hearings for 4 of the following risk areas:

Category I (areas associated with counterforce military installations): Limestone (Loring Air Force Base) Risk Area; York (Kittery-Portsmouth Naval Shipyard) Risk Area;

Category II (location of installations of high military value): Cutler; Brunswick-Bath;

Category III (urban-industrial areas): Portland; Bangor; Lewiston-Auburn; and

Category IV (center of government): Augusta

The first three categories are based on federal law; the fourth category was established by the State law. Since it was limited to four hearings, the Commission decided to disregard the center of government category and concentrate on the seven federal risk areas. The Commission's objective in selecting four hearing sites from among the seven was to seek an even distribution among the three risk categories, among plans in various stages of completion and among geographical locations.

The following risk areas were selected for public hearings: Limestone, which is a Category I Risk Area in Northern Maine with a completed plan; Bangor, which is a Category III Risk Area in Central Maine with a substantially completed plan; Portland, which is a Category III Risk Area in South coastal Maine for which no planning has been done; and Brunswick, which is a Category II Risk Area in South coastal Maine with a substantially completed plan.

At its first meeting in January, the Commission faced a dilemma. The law called for completion of the public hearing phase of its work by March 1. To meet the notice requirements of the law, the hearing sites and times and the arrangements for facilities at each location would have had to be finalized at that meeting. The Commission would then have had less than a month to finalize the hearing agenda and procedure and to obtain and prepare materials for distribution at the hearings. The four public hearings would have had to be held during the last week of February.

The Commission decided that it was physically impossible to meet that timetable and that the Commission would not be carrying out its duties in a responsible manner if it attempted to do so. The Commission members felt that more thorough deliberations were necessary in order to fulfill the basic objectives of the legislation.

Accordingly, the Commission decided to adhere to the letter of the law whenever possible but, when that became impossible, to do its job to the best of its ability while complying with the spirit of the law. A schedule was developed which called for holding the public hearings during mid-March (A copy of the hearing schedule is attached at Appendix B). It should be noted that the Commission's decision is supported by an Attorney General's opinion. That opinion, dated March 27, 1984, finds that the hearing completion date and the reporting date are merely directory and that the failure to conduct hearings or issue a report by the dates specified would not affect the Commission's continued existence or funding. (A copy of the opinion is attached at Appendix C.)

In making its decision on the locations of public hearings in the selected risk areas, the Commission was influenced by additional considerations. There were several physical requirements used to select the hearing locations -- number of seats, presence of a sound amplification system,

handicapped access and availability on the hearing dates. The Commission has received some criticism for its selection of Presque Isle, which is a host area, but not a risk area, as the site of the Limestone hearing. The law calls for hearings in risk areas. In the early deliberations of the Commission it was felt that Caribou, which is in the Limestone Risk Area, would be the natural place for the hearing. However, after contacting local officials in Caribou, it seemed a location was not available which met all of the Commission's criteria. Therefore, in accordance with its policy to adhere to the spirit, if not the letter, of the law, the Commission scheduled the hearing for Presque Isle.

In considering the presentation of materials at the public hearing, the Commission was guided by the statute which provides: "The commission shall approve the informational materials required for the hearings to assure all points of view are represented...." The Commission considered numerous booklets, pamphlets and articles and several slide shows and video tapes from various perspectives. The Commission also met several times with members of the State Bureau of Civil Emergency Preparedness planning staff to get the planner's perspective on the plans. Commission member, Dr. Maier, articulated the point of view of the Physicians for Social Responsibility (PSR) to the Commission. Throughout its discussions, member, Leslie Higgins, was available to provide the Commission with a local CEP official's experience.

In the end, the Commission decided to provide information through the dissemination of various written materials and oral presentations by BCEP and PSR representatives. The informational materials which the Commission selected were as follows:

1. A brief summary of the Risk Area Plan prepared by the Commission;
2. "The Effects of Nuclear War" - the summary of a study by the Office of Technology Assessment, an arm of the United States Congress. The Commission considered this to be a neutral discussion of the direct and indirect effects of a nuclear war on the populations and economies of the United States and the Soviet Union.
3. Three FEMA publications advocating the desirability of planning:
 - "In Time of Emergency"
 - "What You Should Know About Nuclear Preparedness"
 - "U. S. Crisis Relocation Planning"
4. Three publications opposing or arguing the futility of planning for nuclear war:
 - "Nuclear War and Maine: No Place to Hide"
 - "Dangerous Deception: Civil Defense Planning in the Nuclear Age"
 - "The Nuclear Winter" - an article by Carl Sagan which the author and his agent, Scott Meredith Literary Agency, graciously allowed the Commission to use.

The oral presentations were made by Michael Pomerleau, chief planner of the Bureau of Civil Emergency Preparedness, and by spokespersons from the Physicians for Social Responsibility. Equal time was allotted for both. At each hearing, Mr. Pomerleau described the plan for that area, its rationale, the background for its development, alternatives and the future role of the plan under the new Integrated Emergency Management System planning approach mandated by the federal government. The PSR representatives were Doctors Daniel Wood, Nancy Coyne and John Van Orden at Brunswick, David Clark and Michael Batt at Portland, Bruce Alexander at

Presque Isle and David Frasz and Edward Harrow at Bangor. They presented information on the immediate and long term effects of nuclear attack. These spokespersons and the Commission members themselves were also available to answer questions from the public at the hearings.

V. PUBLIC HEARINGS

A. Hearing Agenda

In developing the agenda for the public hearings the Commission was again guided by the provisions of the law. Each hearing was divided into two parts -- an informational part and a public comment part. The information segment is described above in the Hearing Procedures section. The public comment part consisted of providing an opportunity for anyone who wished to comment on the plan or the advisability of planning to do so. The public comment segment also included a non-binding poll to determine whether those in attendance agreed or disagreed with the plan. The results of the poll are discussed in section C below. (A copy of the agenda to which the Commission adhered as closely as possible at each hearing is attached at Appendix D and a copy of the ballot used in the non-binding poll is attached at Appendix E.)

B. Summary of Public Hearing Testimony

It is impossible in a preliminary report to summarize the spoken and written testimony by over 100 individuals representing a broad spectrum of viewpoints. In the course of the four hearings, the Commission witnessed a dramatization of weapons effects, a skit about nuclear attack, recitations of poetry, spiritual and religiously based appeals, and extremes of praise and condemnation of the commissioners and their mandated task. Most of the testimony was serious and well reasoned, much of it emotionally moving and

eloquent, and frequently there were elements of humor, wit and satire.

What follows are some of the major themes presented by opponents and proponents of the existing plans or planning approach.

As mentioned elsewhere in the report, a number of individuals asked that additional hearings be held in the other designated risk areas as well as in host communities -- in particular, at Cutler, Kittery, Camden, and Lewiston. In several cases citizens travelled over 100 miles from their home communities to express their sentiments to the commissioners.

Except for an outspoken group of civil emergency preparedness officials from Aroostook County, who questioned the legality of the commission's timetable and procedures, most citizens were appreciative of this chance to make their views known about nuclear civil protection plans. As one Bangor mother put it, "There is interest in the legislative body in how we feel about being obliterated."

Opponents of the nuclear civil protection plans repeatedly attacked the assumptions on which they are based. There was widespread skepticism that there would be the 2-3 weeks of warning needed to implement crisis relocation planning; that an attack wouldn't come in the midst of evacuation and be even more drastic; and that citizens would cooperate in some orderly and passive way with the order to leave their homes perhaps never to return. Missiles could reach Maine from offshore submarines in minutes, and could easily be retargeted to host communities. Examples were cited of communities like Greenfield, Massachusetts, where a University of Massachusetts Geology Department study showed the hopeless inadequacy of food, shelter and other resources in a host community to accommodate a huge influx of evacuees. Some vowed direct disobedience to an order to evacuate -- one Bath-Brunswick area resident asked she be put on the "uppity citizen list," of those who would not participate in crisis relocation planning.

Others asked that a route be left open to get under "ground zero" rather than try to evacuate.

Many questioned whether construction know-how, time and tools would be sufficient to construct, heat, and ventilate improvised fallout shelters that could actually protect occupants from radiation hazards which the planners probably underestimate. One man charged the commission to investigate the legal liability incurred in moving tons of dirt onto and into houses and buildings in the event an attack did not follow the crisis relocation and shelter building.

Many citizens, including a number of health professionals, an astronomer, a soil scientist and university professors, who testified alluded to the recent research by Carl Sagan and other internationally respected scientists who predict that a "nuclear winter" would follow even a limited nuclear war, which would doom residents of the entire northern hemisphere to slow death by cold, thirst or starvation. They cited the ominous additive effects of sublethal radiation sickness, widespread infectious disease due to millions of corpses and the breakdown of sanitation, inadequate nutrition, severe psychological stress and loss of the will to live, as reasons why existing nuclear civil defense plans are only a short sighted substitution of protracted suffering and ultimate demise for a more immediate death.

Opponents of the plans were vociferous in their criticism that these plans are not a benign lifesaving means but part of the administration's efforts to fight and win a nuclear war that secret Pentagon documents have described. One Bath-Brunswick man spoke of how crisis relocation planning makes all of us "nuclear soldiers" instead of civilians. Several cited the Reagan presidential directive that states survival is only a tertiary goal

of nuclear civil protection planning, after the primary strategic goals of enhancing deterrence, and avoiding being coerced or "held hostage" by the U.S.S.R.

At every one of the hearings, audiences expressed confusion and skepticism about the "new" direction of the federal and state planners that substitutes Integrated Emergency Management Systems for specific nuclear civil protection plans. Many opponents questioned an approach that seems to treat nuclear war as "just another hazard like floods or tornadoes," citing many qualitative differences like the lack of an "outside" to provide support and medical care, the magnitude of death and suffering, and the global ecologic effects that make nuclear war grimly unique and terrifying.

Some speakers addressed the ways in which nuclear civil protection plans may make war more likely, by creating an illusion of protection for 80% of the population that allows military planners to more readily buff their way to the brink of species extinction; or by fostering the public denial of the lethality of nuclear war. One man compared these plans to a "Maginot line" that creates a false sense of security. Others felt that the act of implementing crisis relocation could itself provoke a first strike by the other side rather than enhance deterrence. One individual quoted a European friend's observation that the presence of U.S. nuclear civil protection plans shows "a manifest will to fight."

Numerous opponents of the plans in all four locations strongly urged the Commission to recommend to the Governor and Legislature to reject participation in any form of planning for nuclear war, regardless of whether this is done specifically or as part of a generic crisis management program. Dozens of speakers suggested that any funds for this purpose be used instead for peace education, US-USSR cultural exchange, founding of a

national peace academy, and working to implement bilateral disarmament via a freeze or other means. Many felt the information on weapons effects and the inadequacy of civil defense should be made available through public presentations and printed materials to all citizens of the state, perhaps in phone book sections like the ones describing civil protection plans in Aroostook County.

Proponents of nuclear civil protection plans and planning sounded several themes. Concern about the Soviets' motivation and presumed willingness to fight and win a nuclear war was cited as a reason to improve and expand our civil defense planning to keep up with theirs. As one Presque Isle citizen quipped "The Russian bear has reinforced his lair and the American Eagle is out on a limb." To do away with nuclear civil protection plans would be a form of unilateral disarmament, some argued, and similar to throwing away smoke detectors or a fire insurance policy. Several citizens commented about the extent of nuclear civil protection plans in Sweden and Switzerland and expressed feeling that if the leaders of government in the U.S. have blast shelters, so should the rest of the population.

Proponents feel that the logistics of crisis relocation plans are feasible. One man commented about his experience with hurricane Camille; others compared the ease of moving large crowds to and from a football game.

A few decried as "Unamerican" the "scare tactics" of opponents of crisis relocation planning, insisting that "Americans don't panic" and that efforts to do away with the nuclear civil protection plans are "immoral" if even a few people might survive as a result. Some pointed out that nuclear civil protection planning is not incompatible with disarmament. Irritation

was expressed by several of the civil defense planners who said that opposition or criticism of the existing plans was not sounded earlier in their development, but only after their completion.

Some proponents of nuclear civil protection planning, including Mike Pomerleau of the Bureau of Civil Emergency Preparedness, conceded that there is no survival in an all-out nuclear war, but feel the plan would be potentially useful in situations such as a terrorist gaining access to a nuclear weapon, or an accidental detonation. (Doubts about the probability of such scenarios were voiced by opponents in rebuttal).

Not surprisingly, recommendations to the commission from proponents of nuclear civil protection plans were for more study of civil defense planning efforts in other countries, expansion of programs here to include more training of shelter leaders and construction of more in place sheltering capacity, incentives to individuals and industries to expand their civil defense efforts, and a broad based effort to educate the public to the need for more and better nuclear civil protection planning.

Very strong support emerged throughout the hearings for expanded planning for natural disasters of all kinds, one of the areas of agreement between both opponents and proponents of nuclear civil protection planning

C. Summary of Non-binding Poll

One of the interesting observations of the Commission from its hearing process is the high level of public interest in the topic of nuclear civil emergency planning. When public forums are provided and properly noticed, when citizens are encouraged to attend and when they are made to feel that their opinions are important, they will attend and express their views on that topic. Unofficial headcount totals for the public hearings were: 125 Brunswick on the night of a severe snow storm, 300 in Portland, 130 in Presque Isle, and 135 in Bangor. In all, nearly 700 people attended the 4

hearings.

Of those who attended the hearings, 628 cast ballots in the non-binding poll. With the exception of Presque Isle, the vote results were overwhelmingly against nuclear civil protection planning. The vote result in Presque Isle also opposed planning, but by a much narrower margin. The overall poll results were: 538 (85.5%) opposed to the plans, 72 (11.4%) in favor of the plans and 18 (3%) undecided. The individual vote tallies for each hearing and a breakdown of the vote at each hearing by risk communities, host communities and other communities is attached at Appendix E.

The ballots also contained space for comments. Generally the comments on the ballots were parallel to those offered by speakers at the hearings which are summarized above.

APPROVED

CHAPTER

JUN 28 '83

516

BY GOVERNOR

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-THREE

H.P. 1266 - L.D. 1677

AN ACT to Assure Public Awareness of
Nuclear Civil Protection Plans for Maine.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 37-A MRSA §56-A is enacted to read:

§56-A. Citizens' Civil Emergency Commission

1. Commission. The Citizens' Civil Emergency Commission is established.

A. The commission shall consist of 9 members who shall serve 2-year terms. Seven members shall be appointed by the Governor. One member shall be appointed by the President of the Senate and one member shall be appointed by the Speaker of the House of Representatives. The member appointed by the President of the Senate shall be a member of the Senate. The member appointed by the Speaker of the House of Representatives shall be a member of the House of Representatives. Each member shall be a Maine resident. Members of the commission shall select a chairman from among themselves by a majority vote.

B. Commission members shall be compensated for travel expenses to and from all commission meetings and hearings at the same rate as state employees.

C. The commission shall review civil protection

1-806

plans designated to deal with nuclear weapons hazards, hold public hearings as required by subsection 2, monitor the development and implementation of nuclear civil protection plans, encourage public discussion of the plans and report its findings and recommendations to the Governor, the Legislature, appropriate counties and municipalities and other interested parties.

2. Civil protection planning review; nuclear civil protection plans. A nuclear civil protection plan covering any of the designated risk areas listed in this subsection and which is designed to protect the civilian population of the areas from the effects of nuclear weapons attack shall be subject to this subsection.

A. Prior to March 1, 1984, the commission shall conduct a public hearing in 4 of the following 8 designated risk areas in the State:

(1) Category I (areas associated with counterforce military installations): Limestone (Loring Air Force Base) Risk Area; York (Kittery-Portsmouth Naval Shipyard) Risk Area;

(2) Category II (location of installations of high military value): Cutler; Brunswick-Bath;

(3) Category III (urban-industrial areas): Portland; Bangor; Lewiston-Auburn; and

(4) Category IV (center of government): Augusta.

B. Each public hearing shall be divided into 2 parts. The first part shall be designed to provide information on: The nuclear civil protection plan for that risk area including both the crisis-relocation plan and the in-place shelter plan or the proposed approach to nuclear civil protection planning; the rationale for the plan; alternatives to the plan; the process of accepting, implementing and funding the plan; and the immediate and long range effects, including

social, economic, medical and psychological effects, of a nuclear attack on the target area and on the State. Written informational materials shall be available at the hearing. The 2nd part shall be designed to hear the views of citizens on the nuclear civil protection plan or the proposed approach to nuclear civil protection planning. Oral and written testimony shall be taken. At the end of the public hearing a nonbinding poll shall be taken of the citizens present as to whether they agree or disagree with the proposed nuclear civil protection plan.

C. The hearings shall be held in a convenient, central location in each designated risk area at a convenient time in the evening. Reasonable notice shall be given, including, but not limited to, publication in local and general circulation newspapers in target and host communities at least 20 but not more than 30 days prior to each hearing.

D. The commission shall approve the informational materials required for the hearings to assure all points of view are represented; publicize the hearings; review the material presented at the hearings, including public comments and the survey results; and report its findings and recommendations to the Governor, the Legislature and each community within the target zones. Reports shall be completed prior to adjournment of the Second Regular Session of the 11th Legislature. The final report to the Governor and the Legislature shall include an evaluation of the commission's work and a recommendation whether the commission ought to be continued to study other risk areas and to review other civil emergency planning efforts. If the recommendation is to continue, the report shall include appropriate implementing legislation and recommended sources and levels of funding.

E. A nuclear civil protection plan for any of the designated risk areas for which a public hearing is held, which has not been approved, prior to January 1, 1983, shall not be approved until after the public hearing and the report of

the commission on that area. Any nuclear civil protection plan, which has been approved prior to January 1, 1983, may be reconsidered and modified, or approval may be withdrawn, based on the hearing and report.

Sec. 2. 37-A MRSA §62, 3rd ¶, as amended by PL 1977, c. 694, §743, is further amended to read:

The state director, for purposes of civil emergency preparedness, and subject to the approval of the Governor, may convey equipment, supplies, materials or funds by way of sale, lease or grant to any political subdivision of the State, such that conveyance to be subject to the terms of the offer and the applicable state rules and federal regulations, if any, imposed by the State. These rules and regulations are not rules within the meaning of the Maine Administrative Procedure Act, Title 5, section 8002, subsection 9. The state director shall not require any political subdivision to participate in any program of nuclear civil protection planning.

Sec. 3. Finding. The Legislature finds that plans are being developed to prepare for response to a nuclear attack on the State; that many Maine residents are not aware of the plans and have not had adequate opportunity to question and comment on the plans; and that those plans may be ineffective and inappropriate.

Sec. 4. Staffing. Staffing assistance to the commission for conducting the public hearings, reviewing the materials presented and preparing the reports required by this Act shall be provided by the Office of Legislative Assistants.

Sec. 5. Sunset provisions. Unless continued or modified by law the Citizens' Civil Emergency Commission shall terminate no later than June 30, 1985.

Sec. 6. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1983-84

LEGISLATURE

Legislature

All Other

\$6,995

In the event that federal funds become available through the United States Energy Management Act to carry out the requirements of this Act, those funds shall be used before state funds. It is the intent of the Legislature that the funds appropriated by this section be used only to carry out the purposes of this Act.

In House of Representatives, 1983

Read twice and passed to be enacted.

..... Speaker

In Senate, 1983

Read twice and passed to be enacted.

..... President

Approved 1983

..... Governor

CITIZENS' CIVIL EMERGENCY COMMISSION

Public Hearings

March 13, Tuesday
7:00 p.m. in Brunswick
Brunswick Junior High School Auditorium

March 15, Thursday
7:00 p.m. in Portland
Deering High School Auditorium

March 20, Tuesday
7:00 p.m. in Presque Isle
Presque Isle High School Auditorium

March 22, Thursday
7:00 p.m. in Bangor
Bangor High School, Peakes Auditorium

JAMES E. TIERNEY
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

March 27, 1984

Honorable Gerard Lehoux
House of Representatives
State House Station #2
Augusta, Maine 04333

Dear Representative Lehoux:

I am writing in response to your inquiry regarding the continued existence of the Citizens' Civil Emergency Commission, in view of the fact that the Commission has apparently failed to conduct public hearings as directed by the Legislature before March 1, 1984, and the Legislature has failed to pass legislation extending that deadline. For the reasons which follow, it is my view that, notwithstanding these failures, the Commission remains in existence and may continue to discharge its statutory functions.

At the First Regular Session in 1983, the 111th Legislature passed a statute creating the Citizens' Civil Emergency Commission. P.L. 1983, ch. 516, enacting 37-A M.R.S.A. § 56-A. The Commission, which consists of nine members serving for two-year terms, was directed to review civil protection plans dealing with nuclear weapon hazards; to hold public hearings on those plans; and to make findings and recommendations to the Governor, the Legislature and appropriate counties and municipalities and other interested parties regarding the adequacy of the plans. 37-A M.R.S.A. § 56-A(1). These recommendations were to be made prior to the adjournment of the Second Regular Session of the 111th Legislature. 37-A M.R.S.A. § 56-A(2)(D). However, the

Legislature also provided that the terms of the Commissioners were to be two years in length, 37-A M.R.S.A. § 56-A(1)(A), and that the Commission would continue to exist until June 30, 1985. P.L. 1983, ch. 516, § 5. It thus appears that the Legislature's general intention was to create a Commission to review nuclear civil protection plans over a two-year period and to make a report to the Legislature during that period. To accomplish this objective, the Legislature appropriated \$6,995 in the same bill for the 1984-85 biennium. P.L. 1983, ch. 516, § 6.

The Commission was further directed by the Legislature to conduct a public hearing in at least four designated locations, and to do so prior to March 1, 1984. It appears that, as a result of a delay in the appointment of the members of the Commission, it was not able to hold these hearings as directed. Consequently, a bill was introduced at the Second Regular Session of the 111th Legislature to extend the deadline for the holding of the hearings to March 30, 1984. Legislative Document 2217 (111th Leg. 1984). You have advised our office that the Senate has indefinitely postponed this bill. Thus, you ask whether or not the failure of the Commission to hold the public hearings as directed in any way affects its ability to hold those hearings after the deadline, or indeed has any effect on its continued funding or existence.

In my view, none of these consequences follows from the failure of the Commission to meet the hearing deadline. As indicated above, the clear overriding intention of the Legislature was to create a Commission to exist for two years to conduct studies into the adequacy of nuclear civil protection plans. The members of the Commission were to serve for two years, the agency itself was to terminate on June 30, 1985, and its funds were appropriated for the same biennium. In view of this, the direction of the Legislature to conduct public hearings by March 1, 1984 (and the direction that the Commission report to the Legislature by the end of the current Session, about which you have not asked), must be viewed as directory only, and the failure of the Commission, for whatever reason, to conduct such hearings (or make such a report) should not affect its ability to function after that time, much less threaten its existence. To read the statute in this latter fashion would be to defeat the Legislature's clear intention to have a thorough study on the adequacy of nuclear civil protection plans conducted and the results reported to the Legislature.

I hope the foregoing answers your question. Please feel free to reinquire if further clarification is necessary.

Sincerely,



CABANNE HOWARD
Assistant Attorney General
Chief, Opinion Division

CH/ec

→ cc: Rep. Thomas H. Andrews

CITIZENS' CIVIL EMERGENCY COMMISSION
AGENDA
FOR PUBLIC HEARINGS

- 6:30 Doors open; information disseminated
- 7:00 Convening of hearing by chairperson
- introduce members
 - discuss Commission objectives
 - outline procedure for hearing
- 7:20 Bureau of Civil Emergency Preparedness presentation
- the plan or planning approach
 - the rationale
 - alternatives
- 7:40 Effects of Nuclear Attack on Maine
- short term
 - long term
- 8:20 Begin public comment part of hearing
- 10:00 Citizens' poll

BALLOT

APPENDIX E



CITIZENS' CIVIL EMERGENCY COMMISSION

NON-BINDING POLL

I AGREE WITH THE NUCLEAR PLAN OR PLANNING APPROACH DESCRIBED AT THE PUBLIC HEARING TONIGHT.

I DISAGREE WITH THE NUCLEAR PLAN OR PLANNING APPROACH DESCRIBED AT THE PUBLIC HEARING TONIGHT.

I AM UNDECIDED OR UNABLE TO VOTE BECAUSE I DO NOT HAVE ENOUGH INFORMATION.

I LIVE IN _____
(Town or City)

COMMENTS: (If you have comments which you wish the Commission to consider in developing its recommendations to the Governor and the Legislature, please make them here. You may also submit written comments later.)

Please mark, fold and return your ballot before leaving the hearing.

OVERALL POLL RESULTS

	IN FAVOR	OPPOSED	UNDECIDED	TOTAL
BRUNSWICK	2	112	1	115
PORTLAND	4	256	4	264
PRESQUE ISLE	51	59	11	121
BANGOR	15	111	2	128
TOTAL	72	538	18	628

BRUNSWICK RISK AREA POLL RESULTS

	IN FAVOR	OPPOSED	UNDECIDED	TOTAL
RISK COMMUNITIES				
Arrowsic		1		1
Bath		9		9
Brunswick		59	1	60
Freeport		2		2
Harpswell		7		7
Phippsburg		1		1
Topsham	2	11		13
W. Bath		1		1
Woolwich		1		1
SUBTOTAL	2	92	1	95
HOST COMMUNITIES				
Camden		3		3
OTHER COMMUNITIES				
Bowdoin		2		2
Bowdoinham		2		2
Bristol		1		1
China		1		1
Durham		1		1
Gardiner		1		1
Litchfield		1		1
Pejepscot		1		1
Waterville		2		2
SUBTOTAL	0	12	0	12
RES IDENCE NOT INDICATED	0	5	0	5
TOTAL	2	112	1	115

PORTLAND RISK AREA POLL RESULTS

	IN FAVOR	OPPOSED	UNDECIDED	TOTAL
RISK COMMUNITIES				
Cape Elizabeth		6		6
Cumberland		2		2
Falmouth		12	1	13
Gorham		2		2
Portland		155	3	158
Scarborough		5		5
So. Portland		23		23
Windham		1		1
Yarmouth		4		4
York County		1		1
SUBTOTAL	0	211	4	215
HOST COMMUNITIES				
Bridgton		1		1
Sebago		2		2
Buxton		1		1
Cornish		2		2
Parsonfield		2		2
Porter		1		1
Standish		1		1
Waterboro	2	1		3
SUBTOTAL	2	11	0	13
OTHER COMMUNITIES				
Acton		1		1
Alfred		2		2
Biddeford		4		4
Brunswick		2		2
Bar Mills	1			1
Chelsea		1		1
Freeport		3		3
Harpswell		1		1
Kennebunkport		1		1
Kezar Falls		1		1
New Gloucester		1		1
Ogunquit	1			1
Peaks Island		9		9
Springvale		1		1
SUBTOTAL	2	27	0	29
RES IDENCE NOT INDICATED	0	7	0	7
TOTAL	4	256	4	264

LIMESTONE RISK AREA POLL RESULTS

	IN FAVOR	OPPOSED	UNDECIDED	TOTAL
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RISK COMMUNITIES				
Caribou	9	16	4	29
Limestone	4	1		5
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SUBTOTAL	13	17	3	34
HOST COMMUNITIES				
Fort Kent		5		5
Houlton	9	5		14
Madawaska	4			4
Presque Isle (critical workers)	9	21	6	36
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SUBTOTAL	22	31	6	59
OTHER COMMUNITIES				
Chapman		1		1
Crouseville	1			1
Eagle Lake		2		2
Easton		4		4
Fort Fairfield			1	1
Mapleton	1	1		2
Monticello	2	1		3
New Sweden	1			1
Stockholm	1			1
Washburn	3	2		5
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SUBTOTAL	9	11	1	21
RES IDENCE NOT INDICATED	7	0	0	7
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TOTAL	51	59	11	121

BANGOR RISK AREA POLL RESULTS

	IN FAVOR	OPPOSED	UNDECIDED	TOTAL
RISK COMMUNITIES				
Bangor	6	38	2	46
Brewer	4	1		5
Eddington		3		3
Hampden		5		5
Hermon	2			2
Holden		1		1
Kenduskeag		1		1
Orono		15		15
SUBTOTAL	12	64	2	78
HOST COMMUNITIES				
Bucksport		1		1
Ellsworth		2		2
Corinna		2		2
Dexter	1	2		3
Lincoln		1		1
Old Town		5		5
Dover-Foxcroft		3		3
SUBTOTAL	1	16	0	17
OTHER COMMUNITIES				
Bar Harbor		3		3
Blue Hill		1		1
Brooklin		3		3
Cambridge		1		1
Carmel		1		1
Deer Isle		1		1
East Corinth		1		1
Exeter		2		2
Frankfort		1		1
Lubec		2		2
Milo	1			1
Saint George		1		1
Sangerville		1		1
Seal Harbor		1		1
Southwest Harbor		1		1
Stetson		2		2
Stonington		1		1
Waltham		1		1
Winterport		3		3
SUBTOTAL	1	27	0	28
RES IDENCE NOT INDICATED	1	4	0	5
TOTAL	15	111	2	128