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**STATE OF MAINE  
120TH LEGISLATURE  
FIRST REGULAR SESSION**

**Final Report  
of the  
COMMISSION TO STUDY THE  
IMPLEMENTATION OF A UNIFIED  
EMERGENCY RESPONSE FOR  
EMERGENCY RELEASES AND SPILLS OF  
TOXIC OR HAZARDOUS MATERIALS**

**DECEMBER 2001**

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## EXECUTIVE SUMMARY

The Commission to Study the Implementation of a Unified Emergency Response for Emergency Releases and Spills of Toxic or Hazardous Materials was established in the First Regular Session of the 120<sup>th</sup> Legislature by Resolves 2001, Chapter 65. The Commission was co-chaired by Senator Anne Rand and Representative Robert Duplessie and was composed of 18 members and 1 alternate member. Membership groups represented were the Legislature, SERC, MEMA, fire fighters, municipal government, private industry and the State agencies of Department of Environmental Protection, Department of Labor and the Maine State Police.

The Commission was charged with studying how state, county and municipal governments and private industry respond to unplanned or unlawful releases and spills of toxic or hazardous materials into the environment. Generally, the Commission was charged with studying the State's ability to respond to hazardous materials incidents and to recommend any changes to laws, rules, ordinances or procedures necessary to establish a lead response agency in all geographic areas of the State.

Due to the complexity of the issue before it, the Commission focused on 3 main issues: 1) the need to provide incentives and eliminate obstacles to encourage industry teams to respond offsite; 2) the lack of resources available to provide incentives for members of emergency response teams to participate in training opportunities; and 3) whether or not there is a need to provide statewide models on incident command and training certification. Other areas the Commission discussed were transportation reporting requirements for facilities that store hazardous chemicals, related studies and models used by other states and other agencies for areas related to HAZMAT response. (See *Appendix C* for a compilation of agendas and meeting summaries for each of the Commission meetings.)

The Commission makes the following recommendations:

### **1. Enhance Existing and Encourage New Emergency Response Teams**

**Finding:** The Commission finds that there is a need to enhance existing and encourage new emergency response teams in the state.

**Recommendation:** The Commission encourages the State's Terrorism Task Force to consider enhancing existing emergency response teams and developing new emergency response teams in underserved areas of the state in its planning and allocation of resources.

### **2. Clarify Liability Immunity and Worker's Compensation**

**Finding:** The Commission finds that a lack of clarity in the law regarding liability immunity and workers' compensation coverage for local, industry and private emergency responders discourages their participation.

**Recommendation:** The Legislature should enact legislation to clarify the law to clearly include local, industry and private emergency responders under State liability immunity and workers' compensation insurance. (See *Appendix E* for proposed legislation.)

### **3. Provide Incentives for Training**

**Finding:** The Commission finds that emergency response teams lack the resources to provide incentives for team members to participate in training opportunities.

**Recommendation:** The Legislature should enact legislation to provide resources to emergency response teams to encourage team membership and full participation in training opportunities.

### **4. Require Facilities to Report Alternate Transportation Routes**

**Finding:** The Commission finds that there are insufficient reporting requirements for facilities that transport hazardous chemicals.

**Recommendation:** The Legislature should enact legislation that requires facilities that are required to file a Maine chemical inventory reporting form pursuant to 37-B MRSA, § 797, to report all alternate transportation routes to local fire departments, the Local Emergency Planning Committee (**LEPC**), and the Maine Emergency Management Agency. (See *Appendix E* for proposed legislation.)

The Commission also recommends that the State Emergency Response Commission (**SERC**) should explore the implications of establishing further reporting requirements that would require all entities that ship hazardous materials into and through the state to submit information regarding standard and alternate transportation routes to local fire departments, LEPCs, and the Maine Emergency Management Agency (**MEMA**).

### **5. Encourage Agencies to Devise Standardized Training Certification**

**Finding:** The Commission finds that there is a lack of coordination of training and physical certification for hazardous materials responders.

**Recommendation:** The Commission encourages the Maine Emergency Management Agency, the Department of Environmental Protection, and the Department of Labor, in consultation with the Department of Administrative and Financial Services, to devise a standardized training certification program.

## **I. INTRODUCTION**

### **A. Resolve**

The Commission to Study the Implementation of a Unified Emergency Response for Emergency Releases and Spills of Toxic or Hazardous Materials (referred to hereafter as the Commission) was established in the First Regular Session of the 120<sup>th</sup> Legislature by Resolves 2001, Chapter 65. A copy of the Resolve is attached as *Appendix A*.

### **B. Membership**

The Commission was composed of 18 members:

- The Director of the Maine Emergency Management Agency
- Commissioner of Environmental Protection
- Commissioner of Labor
- Chief of the State Police
- 2 Representatives of the Maine Fire Chiefs Association
- 1 Representative of the Professional Firefighters of Maine
- 1 Representative of the Maine State Federation of Firefighters
- 1 Representative of municipal government
- 2 Representatives of the State Emergency Response Commission
- 2 Representatives of private industry
- 2 Members of the Senate
- 3 Members of the House of Representatives

Senator Anne Rand served as the Senate chair and Representative Robert Duplessie served as the House chair. A list of Commission members is included as *Appendix B*.

### **C. Charge to the Commission**

The charge to the Commission was specified in the Resolve. The broad duty of the Commission was to study how state, county and municipal governments and private industry respond to unplanned or unlawful releases and spills of toxic or hazardous materials (**HAZMAT**) into the environment. (See *Appendix C* for a list of acronyms.) Generally, the Commission was charged with studying the State's ability to respond to hazardous materials incidents and to recommend any changes to laws, rules, ordinances or procedures necessary to establish a lead response agency in all geographic areas of the State.

### **D. Focus of the Commission**

Due to the complexity of the issue before it, the Commission focused on 3 main issues: 1) the need to provide incentives and eliminate obstacles to encourage industry teams to respond offsite; 2) the lack of resources available to provide incentives for



members of emergency response teams to participate in training opportunities; and 3) whether or not there is a need to provide statewide models on incident command and training certification.

## **II. TASK FORCE PROCESS**

### **A. Meetings**

The Commission was convened on October 9, 2001. In addition to this first meeting, the Task Force held 4 other meetings. These meetings were held on October 25<sup>th</sup>, November 14<sup>th</sup>, November 28<sup>th</sup> and December 12<sup>th</sup>. A compilation of meeting agendas and the meeting summaries are included as *Appendix D*.

### **B. Report and Legislation**

Resolve 65 established December 5, 2001 as the date by which the Task Force was to complete its work and submit its report to the Second Regular Session of the 120<sup>th</sup> Legislature. However, the Task Force requested and received authorization from the Legislative Council to extend the reporting date to December 19, 2001. Resolve 65 authorized the Task Force to submit legislation implementing its recommendations for consideration by the Second Regular Session of the 120<sup>th</sup> Legislature. (See *Appendix E* for proposed legislation.)

## **III. BACKGROUND INFORMATION**

HAZMAT response is comprised of a coordinated effort from numerous interrelated sources. Emergency response touches a variety of entities including federal, state, county and local agencies as well as private organizations. The federal Environmental Protection Agency (**EPA**) sets national standards and requirements for response to hazardous materials spills. Depending on the nature and the extent of the spill, the U.S. Coast Guard may be involved. State entities such as the Maine Emergency Management Agency (**MEMA**), EPA and the Maine Department of Environmental Protection (**DEP**) have a major role in HAZMAT response. (See below for a detailed description of their involvement.) The Maine Department of Public Safety is involved through the Maine State Police and the Fire Marshall's Office. Other public safety offices such as the Local Emergency Planning Committees (**LEPC**), the County Sheriffs, the local police departments and the local fire departments all play a vital role in HAZMAT response. Private entities such as industry facilities that use hazardous materials and have their own response teams as well as commercial cleanup businesses round out the array of government, public and private entities involved in HAZMAT response.

## A. MEMA/SERC/LEPCs

MEMA is a bureau of the Department of Defense, Veterans and Emergency Management. Their mission is "to lessen the effects of disaster on the lives and property of the people of Maine through leadership, coordination and support in the four phases of emergency management: mitigation, preparedness, response, and recovery." They are responsible for coordinating emergency response; tracking incidents and situations; providing guidance and direction to response organizations; and reporting test results back to originating organizations.

Established by Executive Order on April 13, 1987, the State Emergency Response Commission (**SERC**), within MEMA has the duty designated by statute "to implement effective emergency response to releases of hazardous chemicals." 37-B MRSA, Ch. 13, Subch. 111-A, §792. The SERC meets monthly and is comprised of 14 members as follows:

- Director, MEMA, Chair;
- Commissioner of the Department of Human Services or designee
- Commissioner of the Department of Labor or designee
- Commissioner of the Department of Transportation or designee
- Director of Emergency Medical Services or designee
- Representative of local government
- Representative of the Maine Fire Chief's Association
- Representative of professional firefighters
- Representative of private commerce and industry
- Representative of volunteer firefighters
- Representative of organized labor
- Representative of an environmental advocacy organization

Among the SERC duties are to:

- designate emergency planning districts;
- facilitate preparation and implement emergency response plans;
- appoint members to LEPC;
- supervise and coordinate the activities of LEPCs;
- receive release notifications;
- review and monitor hazardous materials training programs; and
- advise the Director of MEMA.

The LEPCs exist in each county to implement SERC programs at the county level. They establish emergency response plans, prepare Risk Analysis and Vulnerability Assessment for their LEPC planning districts, provide public access to data, monitor facility exercises and provide training programs for public safety responders to prepare them to safely respond to chemical releases.

## **B. Department of Environmental Protection**

DEP is responsible for environmental protection and regulation in the state of Maine. DEP is organized into the following major units: the Board of Environmental Protection (appointed by the Governor), the Commissioner's Office and three bureaus that administer the Department's environmental programs: Air Quality, Land and Water Quality, and Remediation and Waste Management. Within the Bureau of Remediation and Waste Management, the Division of Response Services is available 24 hours a day for emergency response to oil, hazardous waste, or hazardous materials spills. The division also provides response training to other agencies, investigates complaints and violations, performs oil terminal inspections, oversees the installation and removal of underground storage tanks, develops contingency plans and response protocols, and implements research projects or testing procedures. Division personnel also provide staff support to the Oil Spill Advisory Committee. There are nine response staff located in the Portland office, seven in the Augusta Office, two in the Presque Isle office and eight in the Bangor Office for a total of twenty-six response staff. When there is a hazardous materials incident DEP provides advice and technical assistance, as the first responders to an incident are usually the local fire departments or other public safety workers.

## **C. Local HAZMAT Responders**

The local HAZMAT responders include general public safety employees from the local Fire and Police departments, various industry-based HAZMAT teams as well as some regional teams established specifically to handle hazardous material incidents. Training level and experience varies greatly depending on the type of team involved. Fire and police department personnel are trained for a wide range of health and safety incidents that often include a HAZMAT component. Industry teams originated to allow facilities to respond to internal incidents involving specific materials at their own facilities, although some industry teams have accepted the role of community protector and willingly send their teams offsite to respond to HAZMAT incidents in the surrounding community. Training for many of these industry teams is specific to the various chemicals and HAZMAT used by their own facility. A list of HAZMAT teams, the fees they charge and their general response area is included as *Appendix F*. Many local responders receive training through SERC funded training grants for both initial training and periodic updates. These local responders are commonly the first ones to arrive at the scene of a HAZMAT incident and the extent of their availability and capability varies greatly across the state.

## **D. Commercial Responders**

Commercial responders are another facet of emergency response to HAZMAT incidents. Companies such as Clean Harbors and Fleet Environmental perform an array of HAZMAT services including site remediation, tank cleaning and transportation of hazardous materials. They also respond to a wide range of incidents from oil/water spills, transportation spills, home incidents and chemical reactions whether the incident involves

a few drops or thousands of gallons of material. Facilities that use HAZMAT are required by law to have a plan for HAZMAT incidents and file that plan with their County LEPC office. Some facilities, as mentioned previously, maintain their own teams while others contract with commercial enterprises for response and remediation.

#### **IV. COMMISSION FOCUS**

##### **A. Workers' Compensation and Liability Immunity**

Several Commission members expressed concern that a lack of clarity in the law regarding liability immunity and workers' compensation coverage for emergency responders discourages their participation. While some of the industry teams are willing to respond in the community, others are reluctant based on ambiguities in the law as to whether or not private and industry teams are covered by State liability immunity and workers' compensation insurance.

Without a variety of options for the State to call upon for assistance in the case of a hazardous chemical spill or other emergency, the State may be forced to provide full-time salaried regional response staff at a significant cost. Providing greater incentives for industry teams to participate offsite can be a cost-effective way for the State to increase response coverage without having to fully fund additional HAZMAT teams.

From the initial meeting there was clear consensus that numerous industry teams dealt with HAZMAT response at their own facilities. Some businesses allowed their industry teams to go offsite and assist in community HAZMAT incidents while other businesses restricted their teams to onsite incidents. Those industry teams represented on the Commission indicated that their companies saw this effort of assisting in offsite incidents as an important function of community service. As "good neighbors" they were committed to doing their part to help when a HAZMAT incident occurred near their facility. Commission members saw the issue of workers' compensation and liability as significant obstacles for those facilities that currently restrict their teams to onsite incidents. The Commission agreed that clarifying current workers' compensation and liability immunity statutes would encourage more industry teams in assisting at offsite incidents. The industry teams exist and are trained, and the knowledge that the business would not be held accountable for the possible expense of workers' compensation or liability coverage in the event that one of their employees was injured at an offsite incident would be a tremendous incentive for that business to allow an expanded use of its team offsite.

The Commission heard from a variety of sources regarding this issue. MEMA, DEP and other interested parties have been working with the Attorney General's Office in this past year to address the concern. The Commission reviewed the Maine Forest Service's Forest Fire Control Program and its borrowed fire fighter policy as a possible model. David Fitts and Earle Pease from the Department of Administrative and Financial

Services Risk Management and Workers' Compensation programs presented the Commission with information on how liability and workers' compensation is currently handled by the State. They also advised the Commission on issues to consider in an effort to make these response teams eligible for insurance coverage.

These presentations yielded the following key issues that the Commission considered in its recommendation:

- In addition to clarifying who is eligible to be called out by the State, the law must be clear as to who is authorized to call out the emergency response teams.
- At some point in the near future, representatives from MEMA, DEP, the Department of Labor, and the Maine Fire Training and Education Program should work together to develop a standardized training certification. Standardized training for response teams would lower liability risk.
- Emergency response teams should subscribe to a standard incident command structure. This would also lower liability risk.

The Commission recommends that the Legislature enact legislation to clarify the law to clearly include local, industry and private emergency responders under State liability immunity and workers' compensation insurance. Proposed legislation is attached in *Appendix E*.

## **B. Training Incentives**

In addition to insurance coverage, there are other incentives the State could provide to emergency responders. The Commission finds that emergency response teams lack the resources to provide incentives for team members to participate in training programs.

SERC currently provides training grants to LEPCs. While these grants cover the cost of the training, it does not include compensation to employees for time beyond their normal work schedule. The Commission agreed that many of the volunteer members of emergency response teams are already heavily burdened by other commitments and that some sort of incentive was necessary to entice them to attend the additional trainings necessary to create better-qualified response teams. The Commission finds training stipends would allow municipal departments to train their personnel to advanced levels, by providing compensation to their employees who must train beyond their normal work period.

## C. Incident Command

Oftentimes several agencies representing different jurisdictions respond to a hazardous materials incident. A standard incident command provides for better coordination and communication between these parties.

One model that is widely adopted throughout the country is the National Interagency Incident Management System (**NIMS**). Currently, this model is being used by the State of Maine. The Departments of Conservation, Environmental Protection, Inland Fisheries and Wildlife, Marine Resources, Public Safety, and Defense and Veterans' Services have signed a memorandum of agreement that adopts NIMS as a statewide incident command system.

The Commission also reviewed other specific models. These included the chain of command employed by the Maine Forest Service's Forest Fire Control Program and the US Coast Guard Incident Command System employed by DEP. The Commission found that most models currently being used in Maine follow the general structure of NIMS, and therefore incident command is not an obstacle for hazardous materials response.

## D. Transportation

The Commission discussed transportation reporting requirements for facilities that store hazardous chemicals. Some members are concerned that although these facilities are required to provide some general information on transportation routes, they are not required to report alternate routes that may be used. This could lead to a scenario in which emergency management officials in a community are not aware that hazardous chemicals are being shipped through their area, and therefore, the responders are not adequately prepared.

Title 37-B, §797 of the Maine Revised Statutes requires certain facilities that store extremely hazardous substances to submit an annual Maine chemical inventory reporting form to the SERC, the LEPC, and the local fire department with jurisdiction over the facility. The current form only requires that the facility provide a description of the manner in which the substance is shipped to the facility. The Commission recommends that the form should require more specific information to include standard and alternate transportation routes taken through Maine from point of origin or entry to the facility.

The Commission also finds that there is a need for communities in Maine to be more aware of the nature of the chemicals being transported through their areas. Current statute only requires **EHS** facilities, or those that store Extremely Hazardous Substances within the state, to report this information. The Commission recommends that the State Emergency Response Commission (**SERC**) should explore the implications of establishing further reporting requirements that would require all entities that ship hazardous materials into and through the state to submit information regarding standard and alternate transportation routes to local fire departments, LEPCs, and MEMA.

## **V. RELATED TASK FORCES/STUDIES**

### **A. Governor's Terrorism Task Force**

For the last two years, MEMA has been leading an initiative to improve the State's capabilities to respond to a possible terrorist attack or weapons of mass destruction (WMD) incident. Members include the Department of Public Safety, MEMA, the Bureau of Health, the Fire Marshall's Office, DEP, Emergency Medical Services, the National Guard Civil Support Team, and county emergency management directors. Responders in the field are also playing an advisory role in planning efforts. The Task Force has met quarterly since its inception.

As a result of events occurring on September 11, the Federal Emergency Management Agency (FEMA) and the U.S. Department of Justice have made available approximately \$2.4 M and \$1.4 M, respectively, to establish and enhance state capability to respond to terrorist attacks. Some of these funds will be used to establish eight response teams in Maine. The teams will be geographically dispersed to reflect a maximum 45-minute response time.

Because the teams that respond to potential terrorist incidents and those that respond to hazardous materials incidents are most often the same, the Commission encourages the Terrorism Task Force to consider enhancing existing emergency response teams and developing new emergency response teams in underserved areas of the state in its planning and allocation of resources.

### **B. Commodity Flow Study**

MEMA, through the SERC, is sponsoring a study that will provide an inventory of New England hazardous materials transportation routes. The Portland Council of Governments has been contracted to conduct the study. Both highway and rail transportation modes will be presented. Technical and advisory study groups have been convened. MEMA staff is represented on the technical advisory group. The nine-month study will be complete in June 2002. The Commission recommends that the Natural Resources committee receive a copy of this report.

### **C. Maine Fire Protection Services Commission**

The Commission discussed some of the difficulties faced by response teams in recruiting and retaining team members. Another group concerned with recruitment and retention of emergency responders is the Maine Fire Protection Commission. The Legislature established the Commission during the Second Regular Session of the 119<sup>th</sup> Legislature. The Commission was established to monitor and evaluate the State's fire protection services system on a continuing basis and to provide recommendations to the

appropriate State agencies and to the Legislature regarding necessary changes in the fire protection services system. Members include legislators, agency staff, and firefighters.

One of the Maine Fire Protection Commission's several duties is to report to the Legislature on recommendations for recruitment and retention of volunteers, including a length-of-service incentive program for volunteer firefighters. Currently, the Maine Fire Protection Commission has formed a recruitment and retention subcommittee that is overseeing a request for proposals to study the financial feasibility of the State funding a length-of-service incentive program. The study should be underway by January 2002.

#### **D. 1986 Hazardous Materials Response Study**

The 1986 Hazardous Materials Response Study was created in 1986 when the Maine Legislature had questions concerning the State's ability to respond to sudden and accidental releases of hazardous materials in a coordinated and effective manner. The Legislature directed several state agencies to evaluate the State's ability to respond to hazardous materials incidents and to present the results of that study to the First Regular Session of 113<sup>th</sup> Legislature.

After a brief discussion of this report, the Commission determined that some progress has been made in the intervening years despite continued concern over the very issues addressed by the 1986 study group: planning, preparedness, coordination, response operations, evaluation and follow-up. The major challenge that remains is that HAZMAT response is a statewide issue that municipalities cannot face alone. Until the State can focus its attention and resources on a coordinated statewide HAZMAT response, these issues will continue to be a concern.

## **VI. OTHER MODELS**

### **A. Other States' Emergency Response Programs**

Prior to the first meeting of the Commission, upon direction of the Commission chairs, staff looked at other selected state's handling of emergency response to hazardous incidents. An internet search was conducted for the four states reviewed: Florida, Massachusetts, Montana and Wisconsin. While identical categories of information were not available for all 4 states, several similarities existed. All 4 states indicated a strong preference for a response program emphasizing a regional focus. Also, 2 of the states, Massachusetts and Wisconsin, indicated the availability of state funding through general fund revenues for annual financial support to fund operating costs for training. Similar information was not available on the internet for Florida and Montana. Other than the differences in specific details concerning each state's program, the major difference between these states seemed to be the designation of the agency that housed the emergency response program. In Florida, the Department of Community Affairs includes the Division of Emergency Management, in Massachusetts the Department of Fire



Services contains the Regional Hazardous Materials Response Program, in Montana the Department of Military Affairs oversees the activities of the Disaster and Emergency Services Division and in Wisconsin the Department of Military Affairs includes the Department of Emergency Management.

**1. Florida:** Florida responded to the Emergency Planning and Community Right-to-know Act (**EPCRA**) enacted by Congress in 1986 by creating a State Emergency Response Commission (SERC) with Local Emergency Planning Committees (LEPC). There are currently 11 Local Emergency Planning Committees working with 68 County Emergency Management Agencies. During a disaster the county coordinates through the County Emergency Management Organization. Decision-making and resource requests remain at the county level with state-level coordination through the Board of County Commissioners. In 1996 the Division of Emergency Management opened a new State Emergency Operations Center facility specifically designed for response and operation of emergency management support functions. Florida also utilizes 2 broad teams to keep different factions in the state informed. A State Emergency Response Team (**SERT**) is comprised of agencies and organizations from 17 functional areas that have designated officials who are empowered to employ the resources of their agency in the event of an emergency. Additionally, an Intergovernmental Relations Team provides a link for elected officials during a disaster. The Team provides up-to-date information and is equipped to provide information on various grant programs and funding sources available to affected areas in the aftermath of a disaster.

**2. Massachusetts:** A 1982 task force recommended a regional program as the most uniform and cost effective way to address HAZMAT response in Massachusetts. In 1994, through cooperative effort of the Executive Office of Public Safety, Fire Chiefs' Association of Massachusetts, Professional Fire Fighters of Massachusetts, and Massachusetts Association of HAZMAT Technicians a proposal was made to the Massachusetts Legislature to establish a funding mechanism for a standardized regional response for all HAZMAT incidents. Six regional response teams (the same as Massachusetts Department of Fire Services fire districts) were strategically located for a maximum 1-hour response time. The program provided response personnel and equipment to the 351 communities of the state and a \$14 M 5-year bond was issued to contribute to capital costs for equipment. The State General Fund provides \$2.7 M annually to fund operating costs for training. For liability purposes, team members are members of their local departments. They remain local members and are not employees of the State. Team members must receive authorization from their local chiefs and union leaders to participate.

**3. Montana:** Disaster and Emergency Services within the Department of Military Affairs takes the lead in coordinating comprehensive emergency

management for the state of Montana. Currently Montana is divided into 6 emergency management districts.

**4. Wisconsin:** In 1991 the Regional Hazardous Materials Response Team Program was created through the support of the Governor and the Wisconsin Legislature. There are currently 8 regional teams under contract with the Wisconsin State Emergency Response Board. Wisconsin uses a 2-tiered approach: Level A where regional teams have the highest level of equipment and training and they respond to the most serious spills and releases and Level B where county teams are trained and available to handle less serious incidents. Annual general fund revenues of \$2.3 M are used for the regional teams, the county teams, workers' compensation costs and state administrative costs.

## **B. Other Agency Models**

**1. Maine Forest Service, Forest Fire Control Program:** The Commission reviewed the Forest Fire Control Program as a possible model to improve incident command and to resolve issues regarding liability and workers' compensation coverage. The Commission found the following attributes of the program particularly interesting:

- The program follows an effective incident command system with an “unbroken chain of command” from the Director of the Bureau of Forestry down to Town Forest Fire Wardens.
- Forest Rangers have final on-site authority and responsibility for forest fire control.
- Forest Rangers and Town Forest Fire Wardens may employ any person considered necessary to assist in fighting forest fires.
- The Town Forest Fire Warden has responsibility for control of forest fires within municipal limits. For more complicated incidents, the municipality has the option to transfer authority to the State.
- The Maine Forest Service has purchased a borrowed firefighters policy from their insurance provider at a relatively low cost to provide additional liability coverage.
- The program has similar issues with regard to recruitment and retention. Turnover in local fire departments creates an ongoing demand on the training program.

While it is not necessary or possible to implement all of these practices in hazardous materials response, these examples served as ideas that the Commission could expand on as it formulated its recommendations.

**2. Maine Yankee Transportation Notification:** Within the context of the transportation discussion, some Commission members cited a practice followed by Maine Yankee as a model for effective transportation notification.

Up until 1983, shippers of certain radioactive materials were required to report the shipment to the State Police (25 MRSA, § 2109). Maine Yankee still follows this practice. Whenever the facility intends to ship this class of hazardous materials, it faxes an Intent to Ship form to the State Police. Before the materials are shipped, a representative from Maine Yankee calls the State Police to confirm the shipment.

**3. U.S. Coast Guard Incident Command System:** Commission member David Sait from DEP provided the Commission with an overview of the U.S. Coast Guard Incident Command System employed by DEP as a model for the agency's incident command structure. This model follows the general structure set forth in NIMS. The structure consists of three tiers that include an incident commander or a unified command; command staff that include information, safety, and liaison officers; and investigators and agency representatives.

## **VII. FINDINGS AND RECOMMENDATIONS**

### **A. Enhance Existing and Encourage New Emergency Response Teams**

**Finding:** The Commission finds that there is a need to enhance existing and encourage new emergency response teams in the state.

**Recommendation:** The Commission encourages the State's Terrorism Task Force to consider enhancing existing emergency response teams and developing new emergency response teams in underserved areas of the state in its planning and allocation of resources.

### **B. Clarify Liability Immunity and Worker's Compensation**

**Finding:** The Commission finds that a lack of clarity in the law regarding liability immunity and workers' compensation coverage for local, industry and private emergency responders discourages their participation.

**Recommendation:** The Legislature should enact legislation to clarify the law to clearly include local, industry and private emergency responders under State liability immunity and workers' compensation insurance. (See *Appendix E* for proposed legislation.)

### **C. Provide Incentives for Training**

**Finding:** The Commission finds that emergency response teams lack the resources to provide incentives for team members to participate in training opportunities.

**Recommendation:** The Legislature should enact legislation to provide resources to emergency response teams to encourage team membership and full participation in training opportunities.

#### **D. Require Facilities to Report Alternate Transportation Routes**

**Finding:** The Commission finds that there are insufficient reporting requirements for facilities that transport hazardous chemicals.

**Recommendation:** The Legislature should enact legislation that requires facilities that are required to file a Maine chemical inventory reporting form pursuant to 37-B MRSA, § 797, to report all alternate transportation routes to local fire departments, the Local Emergency Planning Committee (**LEPC**), and the Maine Emergency Management Agency. (See *Appendix E* for proposed legislation.)

The Commission also recommends that the State Emergency Response Commission (**SERC**) should explore the implications of establishing further reporting requirements that would require all entities that ship hazardous materials into and through the state to submit information regarding standard and alternate transportation routes to local fire departments, LEPCs, and the Maine Emergency Management Agency (**MEMA**).

#### **E. Encourage Agencies to Devise Standardized Training Certification**

**Finding:** The Commission finds that there is a lack of coordination of training certification for hazardous materials responders.

**Recommendation:** The Commission encourages representatives from the Maine Emergency Management Agency, the Department of Environmental Protection, the Department of Labor, and the Maine Fire Training and Education Program, in consultation with the Department of Administrative and Financial Services, to devise a standardized training certification program.



**APPENDIX A**

**Authorizing Joint Order**



# RESOLVES

## First Regular Session of the 120th

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### CHAPTER 65 H.P. 1085 - L.D. 1454

#### **Resolve, to Study the Implementation of a Unified Emergency Response for Emergency Releases and Spills of Toxic or Hazardous Materials**

**Emergency preamble. Whereas,** Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** in order for the study commission established in this resolve to meet and complete its duties in time for consideration by the Second Regular Session of the 120th Legislature, it is necessary that this resolve take effect immediately; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

**Sec. 1. Commission established. Resolved:** That the Commission to Study the Implementation of a Unified Emergency Response for Emergency Releases and Spills of Toxic or Hazardous Materials, referred to in this resolve as the "commission," is established; and be it further

**Sec. 2. Commission membership. Resolved:** That the commission consists of the following 18 members:

1. The Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management or the director's designee;

2. The Commissioner of Environmental Protection or the commissioner's designee;

3. The Commissioner of Labor or the commissioner's designee;

4. The Chief of the State Police or the chief's designee;

5. Nine members appointed as follows:

A. Two representatives of the Maine Fire Chiefs Association, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House;

B. One representative of the Professional Firefighters of Maine, appointed by the President of the Senate;

C. One representative of the Maine State Federation of Firefighters, appointed by the Speaker of the House;

D. One representative of municipal government, appointed by the President of the Senate;

E. Two members of the State Emergency Response Commission, appointed by the chair of the State Emergency Response Commission; and

F. Two representatives of private industry, one of whom is appointed by the President of the Senate and one of whom is appointed by the Speaker of the House;

6. Two members of the Senate, appointed by the President of the Senate. In making appointments under this subsection, the President shall give preference to members of the Senate who are knowledgeable in toxic or hazardous materials law and emergency response matters; and

7. Three members of the House of Representatives, appointed by the Speaker of the House. In making appointments under this subsection, the Speaker of the House shall give preference to members of the House who are knowledgeable in toxic or hazardous materials law and emergency response matters; and be it further

**Sec. 3. Appointments; chairs; meetings. Resolved:** That all appointments must be made no later than 30 days following the effective date of this resolve. The Executive Director of the Legislative Council must be notified by all appointing authorities once the selections have been made. The first named Senate member is the Senate chair and the first named House of Representatives member is the House chair. The chairs of the commission shall call and convene the first meeting of the commission no later than August 15, 2001; and be it further

**Sec. 4. Duties. Resolved:** That the commission shall study the manner in which state, county and municipal governments and private industry respond to unplanned or unlawful releases and spills of toxic or hazardous materials into the environment and shall recommend any changes to laws, rules, ordinances or procedures that must be made in order to clearly establish a lead response agency in all geographic areas of the State for all such releases. The commission's report must also include recommendations for any improvements to communication systems, equipment or training at the state, local or county level or in private industry necessary to establish a lead response agency for such releases. The commission's report may also include any other issues the commission determines must be addressed to implement that goal; and be it further

**Sec. 5. Staff assistance. Resolved:** That, upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the commission; and be it further

**Sec. 6. Compensation. Resolved:** That the members of the commission who are Legislators are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for necessary expenses for their attendance at authorized meetings of the commission. Other members of the commission who are not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings; and be it further

**Sec. 7. Report. Resolved:** That the commission shall submit its report, together with any necessary implementing legislation, to the Second Regular Session of the 120th Legislature no later than December 5, 2001. If the commission requires a limited extension of time to conclude its work, it may apply to the Legislative Council, which may grant the extension; and be it further

**Sec. 8. Budget. Resolved:** That the chairs of the commission, with assistance from the commission staff, shall administer the commission's budget. Within 10 days after its first meeting, the commission shall present a work plan and proposed budget to the Legislative Council for approval. The commission may



not incur expenses that would result in the commission exceeding its approved budget. Upon request from the commission, the Executive Director of the Legislative Council shall provide the commission chairs and staff with a status report on the commission's budget, expenditures incurred and paid and available funds; and be it further

**Sec. 9. Costs reimbursed by the Maine Emergency Management Agency. Resolved:** That the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency shall use funds in its dedicated State Emergency Response Commission account to reimburse the Legislature in fiscal year 2001-02 for all costs incurred to pay the per diem and expenses of Legislators and expenses for members who are not otherwise compensated by their employers or other entities that they represent and the costs to print the commission's report; and be it further

**Sec. 10. Allocation. Resolved:** That the following funds are allocated from Other Special Revenue funds to carry out the purposes of this resolve.

2001-02

**LEGISLATURE**

**Commission to Study the Implementation of a Unified Emergency Response for Emergency Releases and Spills of Toxic or Hazardous Materials**

Personal Services \$1,375  
All Other 4,300

Provides funds for the per diem and expenses of legislative members and expenses of other eligible members of the Commission to Study the Implementation of a Unified Emergency Response for Emergency Releases and Spills of Toxic or Hazardous Materials and to print the required report.

**LEGISLATURE** \_\_\_\_\_

**TOTAL \$5,675**

**Emergency clause.** In view of the emergency cited in the preamble, this resolve takes effect when approved.

Effective June 28, 2001.

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*About the 120th Laws Of Maine*



Office of the Revisor of Statutes  
State House, Room 108  
Augusta, Maine 04333

## **APPENDIX B**

**Membership List, Commission to Study the Implementation of a Unified Emergency Response for Emergency Releases and Spills of Toxic or Hazardous Chemicals**

**STUDY THE IMPLEMENTATION OF A UNIFIED EMERGENCY  
RESPONSE FOR EMERGENCY RELEASES AND SPILLS OF TOXIC OR  
HAZARDOUS MATERIALS**

**Resolve 2001, Ch. 65**

**As Of** Friday, December 07, 2001

**Appointment(s) by the President**

Sen. Anne A. Rand 61 Melbourne St. Portland, ME 04101 (207)-772-7704	<b>Chair</b>	Senate Member
Sen. W. Tom Sawyer, Jr. 544 Valley Avenue Bangor, ME. 04401 (207)-942-1771		Senate Member
John A. Cannon Professional Fire Fighters of Maine 25 Whitney Avenue Portland, Maine 04102 (207)-775-1721		Representing Professional Firefighters of Maine
Norman Cyr Fire Chief, Madawaska Fire Department 629 Main Street Madawaska, ME 04756		Representing the Maine Fire Chiefs Association
Bill Hussey Fire Chief 320 Ridge Road Peru, ME 04290		Representing Municipal Government
Michael Seavey PO Box 28 Plymouth, ME, 04969		Representing Private Industry

**Appointment(s) by the Speaker**

Rep. Robert W. Duplessie 41 Carol Street Westbrook, ME 04092 (207)-797-8482	<b>Chair</b>	House Member
Rep. Randall L. Berry 184 Robinson Road Livermore, ME 04253 (207)-897-3664		House Member
Rep. Robert A. Daigle 197 Mountain Road Arundel, ME 04046 (207)-282-0761		House Member
David B. Feeney Monson Companies, Inc. 1 Runway Road Portland, Maine 04116		Representing Private Industry

Michael A. Hangge  
PO Box 5221  
Ellsworth, ME 04605

Representing Maine State Federation of Fire Fighters

Captain Raymond Lussier  
P.O. Box 131  
Minot, Maine 04258

Representing Maine Fire Chiefs Association

**Chair, State Emergency Response Commission**

Joseph E. Bolduc  
17 South Alpine Street  
Oakland, Maine 04963  
(207)-453-9301

Representing State Emergency Response Commission

Gary Fortier  
11 Westwood Drive  
Ellsworth, Maine 04605  
(207)-667-6535

Representing State Emergency Response Commission

**Department Members Pursuant to Resolve**

Art W. Cleaves, Director  
MEMA  
72 State House Station  
Augusta, Maine 04333-0072  
(207)-626-4080

MEMA, Alternate Member

Bill Libby, Deputy Comm.  
MEMA  
72 State House Station  
Augusta, Maine 04333-0072  
(207)-626-4080

Maine Emergency Management Agency, Director's Designee

Lt. Jonathan Mahon  
Maine State Police  
42 State House Station  
Augusta, ME 04333-0042  
(207)-624-4478

Maine State Police Chief Designee

David Sait, Director  
Division of Response Services, DEP  
17 State House Station  
Augusta, Maine 04333-0017  
(207)-287-7688

Dept. of Environmental Protection, Commissioner's Designee

David Wacker, Director  
Bur of Labor/Workplace, Safety & Health  
54 State House Station  
Augusta, ME 04333

Department of Labor, Commissioner's Designee

Staff: Todd Jorgenson, OPLA, 287-1670  
Alison Ames, OPLA, 287-1670

## **APPENDIX C**

### **Acronym List**

Commission to Study the Implementation of a Unified Emergency Response for  
Emergency Releases and Spills of Toxic or Hazardous Materials

**Acronym List**

**CERCLA** – U.S. Comprehensive Environmental Response, Compensation and Liability Act of 1980

**DAFS** – Maine Department of Administrative and Financial Services

**DEP** – Maine Department of Environmental Protection

**DHS** – Maine Department of Human Services

**EHS** – Extremely Hazardous Substance

**EMS** – Maine Department of Public Safety, Emergency Medical Services

**EPA** – U.S. Environmental Protection Agency

**EPCRA** – U.S. Emergency Planning and Community Right-to-know Act of 1986

**FEMA** - Federal Emergency Management Agency

**GIS** – Geographic Information System

**HAZMAT** – Hazardous Materials

**LEPC** - Local Emergency Planning Committee

**MEMA** – Maine Emergency Management Agency

**MFS** – Maine Department of Conservation, Maine Forest Service

**MRSA** – Maine Revised Statutes Annotated

**NIMS** - National Interagency Incident Management System

**OSHA** – U.S. Department of Labor, Occupational Safety & Health Administration

**SARA** – U.S. Superfund Amendments and Reauthorization Act of 1986

**SERC** – State Emergency Response Commission

**WMD** - Weapons of Mass Destruction

**APPENDIX D**

**Meeting Summaries**

Commission to Study the Implementation of a Unified Emergency Response for Emergency  
Releases and Spills of Toxic or Hazardous Materials

October 9, 2001, 1:00 – 4:00 PM

- 1:00** Welcome and introductions
- 1:30** Overview of Commission duties
- 1:45** Current approach
  - SERC
  - DEP
  - Pros and cons from Commission members
- 3:00** Other states' regional coordination efforts

October 25, 2001, 1:00 – 4:00 PM

- 1:00** Commodity flow study
- 1:30** User fees and fee structures
- 2:00** DEP and SERC incident data
- 2:30** SERC financial report
- 3:00** Terrorism Task Force update

November 14, 2001, 1:00 – 4:00 PM

- 1:00** Introductions – Clean Harbors, Fleet Environmental & Jackson Labs (tentative)
- 1:30** User fees & fee structures of hazmat teams
- 2:00** EHS facility maps, transportation route reporting – MEMA
- 2:30** Worker's comp & liability issue MEMA
- 3:00** Preliminary findings & recommendations
  - Enhance existing teams
  - Worker's comp & liability issue
  - Support local efforts
  - Others?

November 28, 2001, 1:00 – 4:00 PM

- 1:00** Workers' comp & liability issue
- 1:30** Incident command models
  - Maine Forest Service, Forest Fire Control Program
  - US Coast Guard Incident Command System – David Sait
  - Other proposed models & discussion
- 2:30** Certification – Art Cleaves

December 12, 2001, 1:00 – 4:00 PM

- 1:00** Workers' comp & liability coverage
  - David Fitts, DAFS Risk Management
  - Earl Pease, DAFS Worker's Comp Case Manager
- 2:00** Incident command (Executive Order) - Art Cleaves



Commission to Study the Implementation of a Unified Emergency Response for  
Emergency Releases and Spills of Toxic or Hazardous Materials

Meeting Summary for October 9, 2001

**Present:** Co-chairs Sen. Anne Rand and Rep. Rob Duplessie; and members Sen. Tom Sawyer, Rep. Randy Berry, Rep. Bob Daigle, Norman Cyr, Dave Feeney, Gary Fortier, Michael Hangee, Bill Hussey, Bill Libby, Ray Lussier, John Mahon, David Sait, Dave Wacker

**Overview of Commission duties:** A brief summary of LD1454 was provided highlighting the issues and responsibilities of the Emergency Response Commission.

**Current approach, SERC:**

**Gary Fortier**, State Emergency Response Commission, (SERC) representative, gave a brief summary of SERC's capability and concerns. Some areas of the state have very good technical level teams while other areas are less prepared. More training is needed and yet SERC did not turn down any requests for training grants last year (\$167,000.)

SERC would like to see:

- a method to entice industrial teams to go off-site,
- more local response by cross-training existing public safety responders into the hazmat field.

**Bill Libby**, Maine Emergency Management Agency representative added background information on SERC. SERC has 14 members who meet monthly. They have dedicated, non-lapsing funds of about \$350,000 that is collected from industry based on formulas in statute. Currently most of their money is spent on training grants. Formerly their funds could be used for equipment, although now the only allowable equipment purchases are for computers for the 16 existing county response teams. SERC would also like to see the liability and workers' comp issue settled for 1<sup>st</sup> responders.

**Q?** When industries report their transportation routes, is the information shared with local responders or is it just entered into a database?

**A:** The info that is reported is passed through to local fire departments and county emergency plan workers.

A 9-month study is underway showing New England routes that SERC will take a look at. The last piece for the hazard analysis is the transportation route section.

**Q?** Regarding the workers' comp issue, do the industry response teams have any concerns?

**A:** It's the same issue as for the municipal response teams, although it varies. For example, if MEAD responds off-site they want their employees covered as MEAD employees. They don't want to be involved in the state liability concern. This is not the

case with volunteer teams or with other industry teams that are looking for liability coverage through the 'responders as temporary state employee' status.

In some cases, if an industry allows their team to respond, they don't provide coverage and the responders are covered as 'town employees' (Madawaska) although Madawaska charges user fees when they respond.

The law indicates that responders are considered 'state employees' while in the act of responding—although there is a discrepancy as to whether they are actually covered. The language needs to be refined to ensure that all responders are covered whether they are volunteers or part of an industrial team.

### **Current approach, DEP:**

**David Sait**, Department of Environmental Protection (DEP), provided info on DEP's role. First responders are usually the local fire departments or other public safety workers. DEP is rarely first on the scene despite DEP's early involvement with hazmat accidents. Practically, there is often a fine line between response and removal.

The hazmat section of DEP is small, comprised of only 25 trained responders spread over 4 different office locations, with the largest office made up of only 8 employees. DEP has no true hazmat team; they basically provide technical assistance and advice although occasionally they pull together a hazmat team.

Response in some areas of the state is difficult and the location really determines the quality and quantity of responders. Because there is no standard response DEP is often not sure of what resources will be needed and what the local response capacity is until they arrive on the scene.

Of the 25 employees:

- 8 are funded by the coastal protection, surface water protection program
- 10 are funded by the ground water fund
- 4 are funded by the hazardous waste fund
- 3 are funded by a grant of federal money

All but 1 of these employees is trained for response to both hazardous and non-hazardous incidents. In the case of a petroleum spill, by law DEP is the lead agency. For a gasoline spill, the fire department is really in charge until the fire department can determine that the spill is no longer a public safety issue.

Some 1<sup>st</sup> responders don't want any DEP involvement—some want to back out as soon as DEP shows up. Neither extreme is good. The continuum of response really demands cooperation.

### **Pros and cons from Commission members:**

Industries with fixed facilities pay fees yet industries outside of Maine have no '311'-reporting requirement. Most industry response teams are limited and they

look to DEP to join the effort. The response team really is made up of DEP, industry and local response. As for transportation needs, individual trucks often don't have a plan for response.

**Q?** Is each load manifested? Is there a fee paid with the form?

**A:** Yes, each load is manifested. In October there is a registration of fixed facilities with a \$50 fee due January 1. In March each fixed facility pays a '311 fee' based on the law. For extremely hazardous inventory, firms pay \$50-\$100 per chemical per year with an 'excess fee' for having in excess of a certain quantity of the chemical.

The federal board of carriers sets the liability requirement to transporters at \$750,000 for non-bulk with bulk over 119 gals up to \$1 million.

There's no fee on transportation loads as the federal government collects it — pre-empting the states, although some money comes back to the state through SERC.

The facility fee paid is based on site capacity (container size) not the annual volume of product used or produced so facilities with larger storage containers pay a greater fee than facilities with smaller storage tanks. And at \$400 for one of the larger facilities, the fee is not that much.

**Q?** Is the issue funding for clean-up?

**A:** Funding is not really the issue. It's not a large fund but there seems to be enough for clean-up. Where bigger money is involved, like superfund sites there is a bond mechanism. The real issue here is where does the response team come from; how is it funded and trained?

The big problem for those with user fees is the difficulty trying to collect the fees after responding to non-members. After responding to 2 railroad cars it took 2 years to collect the fees. That's not fair to the annual members. The fee is \$2,000 an hour with a minimum of 4 hours, so the minimum fee is \$8,000 just to get started. Many teams in the state have user fees as the fees allow the team to support themselves. They need to be able to collect the fees to continue.

**Q?** Are there many teams with user fees?

**A?** Some: Waterville, Orono/Bangor—the Penobscot team and Madawaska.

[A list of teams will be sent to members.]

**Q?** If there's a transportation accident and a response do you assess the user fee to the owner of the hazardous material or the transporter? Or if you're called to a facility?

**A:** Whether it's a transportation or a facility accident, if the team responds, the fee is assessed.

**Q?** Who decides to call?

**A:** A town ordinance says if the team is called out there is a charge.

In many cases when the fire department responds, they go to (charge) the transporter carrying the hazmats as the transporter has the liability and the responsibility.

For industry-based hazards things are pretty much okay as everything is planned, trained and funded. The transportation issue is the bigger issue—the unknown. Because of the statewide transportation problem, we need statewide response teams around the population bases to cover the entire state, agreements and formalized teams around regionalized areas. The commodity flow study due soon will help determine where to put the teams.

The concept of planned routes is based on a risk/hazard analysis. For the 16 counties 15 ½ plans have been finalized with 14 accepted by SERC. The plans include state maps and roads, arteries listed as primary or secondary routes for hazmats or home heating oil trucks identified—also the population density within a ½ mile of either side of the roadway.

Maine sought a federal waiver for the weight limit (Federal Motor Carrier Safety Limits) for diverting from better roads to secondary roads but no waivers are being given. It needs a change in federal law.

**Q?** Canada has different weight laws, is there a problem with through-traffic?

**A:** Canada must comply with the state limit of 80,000 maximum in Maine on primary roads with 100,000 on secondary routes.

There is currently a bill in Congress (Rep. Baldacci) for a 3-year pilot study to increase the limit of fuel quantity allowed on the turnpike. The federal interstate limit is 80,000 lbs., or actually 88,000 with 10% tolerance.

Knowing how many teams exist, fire department teams, joint regional teams and industry teams will help determine where to put funding to eliminate unnecessary duplication. Not all regions may need complete teams but all regions have a need for an operations level. The county needs to know whether there will be a team response and who is responsible for operations. The fire departments need a certain level of training.

The National Guard currently has a 22-person civil response team in Maine—not specifically a hazmat team. They only respond to terrorist situations. They don't do recovery, just advice and counsel. They coordinate with other federal agencies and they have the capability to detect, advise and coordinate.

MEMA is heading a terrorism task force with \$1 to \$1.5 M from a Department of Justice grant for terrorism response focused on 1<sup>st</sup> responders, detection, protection and decontamination. They're considering 6 to 8 regional teams and they're looking to boost regional hazmat teams. For the next meeting of this group we can perhaps hear a brief report and find out where the terrorism group and the hazmat group overlap. This may lead to expanded capability.

DEP responded to over 2,500 incidents—mostly oil—with only about 10% of the incidents being hazmats. Of the hazmat incidents, industry responded to most of them.

It is important to designate teams with specific response areas. These teams should have some sort of official sanction as official responders.

Training is an issue, not in terms of paying for the training but in terms of coming up with some sort of incentive to get people to attend the trainings.

**Other states' regional coordination efforts:**

Handouts were provided for an overview of hazmat response in Florida, Massachusetts, Montana and Wisconsin. A comment from the group indicated that Massachusetts uses all professionals on their teams so Maine is facing many different issues with the inclusion of volunteers as responders.

**Q?** How do we track the financial order of the hazard system once it's funded?

**A:** Missouri has a good tracking system. Expenses are approved by SERC.

With a badge system when someone responds or offers to help, it's important to know their training level before allowing the assistance. The 'team chiefs' want to purchase ID badges with certification info, possibly a picture, etc. so response folks know the capacity of other responders.

With badges and a laptop system we could build a database by entering in local info and then getting county info. Badges could be color coded so different capacities would be obvious from a distance—such as orange for operations and green for technicians.

**Next meeting dates:**

- Thurs. 25 Oct. '01 Rm. 437 State House from 1p.m. to 4 p.m.
- Tues. 13 Nov. '01 Rm. 437 State House from 1p.m. to 4 p.m.

For additional information requests for future meetings, if time permits, materials will be sent to members prior to meetings. For those members responsible for providing additional information, please provide the material to Commission staff with enough time for the material to be prepared and sent to members.

Commission to Study the Implementation of a Unified Emergency Response for  
Emergency Releases and Spills of Toxic or Hazardous Materials

Meeting Summary for October 25, 2001

**Present:** Co-chairs Sen. Anne Rand and Rep. Rob Duplessie; and members, Rep. Randy Berry, Rep. Bob Daigle, John Cannon, Norman Cyr, Bill Hussey, Michael Seavey, Joe Bolduc, Michael Hangee, Ray Lussier, Gary Fortier, Art Cleaves, Bill Libby, John Mahon, David Sait.

**Commodity flow study:** Portland Council of Governments is sponsoring a 9-month study that will show New England hazmat transportation routes. Both highway and rail transportation modes will be presented. Technical and advisory study groups have been convened. MEMA staff is represented on the technical advisory group. The study will be complete in June 2002. It was recommended that the Natural Resources committee receive a copy of this report.

**Q?** SERC's Chemical Inventory Reporting Form requires facilities to report transportation routes. Are they only required to report *intended* routes, rather than *actual* routes taken? If so, what can be done to resolve this distinction?

**A:** This topic will be discussed further at the November 14 meeting.

**User fees and fee structure:** Some examples were given of user fees implemented by various teams in the state. In the Madawaska example, \$2,000 per hour with a minimum of 2 hours is charged. Waterville charges \$2,200 per hour plus the cost of materials.

There are some problems associated with user fees. For instance, \$2,000 per hour does not always reflect the actual costs incurred by a team. Many times, the fee has to be artificially high to cover the overall costs to the team. Higher fees represent a disincentive for homeowners and small businesses to report an incident.

Some teams have experienced diminishing membership participation and now find it necessary to charge user fees. Another problem is that it is difficult to require regional team membership of a transportation company.

Another problem is that some see the private industry teams as carrying an inequitable responsibility in responding to incidents. This could be alleviated by more municipal and State assistance in cost recovery. However, this is difficult for many small rural municipalities with a low tax base, and therefore limited resources and capacity. Liability for the response itself is fairly clear in the statutes, the spiller is responsible. However, high costs are associated with the preparation necessary for the teams. This issue underscores the need for a regional approach.

EHS facilities must have mutual aid agreements, but are not required to have their own teams. MEMA will provide a list of EHS facilities at the next meeting.

**Terrorism Task Force update:** FEMA and the Department of Justice have made available approximately \$2.4M and \$1.4M, respectively, to establish and enhance state capability to respond to terrorist attacks. Some of these funds will be used to establish 8 response teams in Maine. The teams will be geographically dispersed to reflect a maximum 45-minute response time. The intention is to enhance existing resources in existing teams. A State Planning Team consists of agencies that include MEMA, EMS, DHS, DEP, National Guard, Fire Marshall, and local public safety agencies. Responders in the field are also playing an advisory role in planning efforts.

**Q?** What is the average cost of training?

A: Each team gets \$50,000. Each team averages 20 members. Weapons of Mass Destruction (WMD) team membership requires 1,000 hours of training. This is in contrast with the OSHA standard of 40 hours and the DEP standard of 100 hours.

There is also a need to fund the salary and benefits of team members as an incentive for members to attend trainings.

Mead's training budget is \$300,000 per year. Response costs come out of the same budget. Mead tries to cover lost wages for responders as well. Madawaska's budget is \$13,000 per year.

**DEP incident data:** The report shows that fuel is the predominant material that is spilled. Other than that, the data shows that no one type of material stands out, and therefore, teams need to be trained and equipped to respond to a variety of spills. Some industries that handle special materials are equipped to respond to those special circumstances.

**Next steps:** The commission identified major issues that it would like to explore further and use as a framework for recommendations and possible legislation:

- ✓ Efforts should be focused to *enhance* existing teams using a regional approach. Terrorism Task Force resources should be directed towards teams that currently have capacity.
- ✓ Liability and worker's comp issues need to be clarified to provide incentive for participation.
- ✓ Efforts need to be made to support local responsibility. More resources need to be provided to part-time local law enforcement, volunteer fire fighters, and others in rural Maine.

At the next meeting, the commission will be provided with a map identifying EHS facilities, recommended language from the Attorney General's Office on the liability issue, and examples of user fees and fee structures. The commission will also discuss transportation reporting issues in more detail. Fleet Environmental and Clean Harbors will be invited.

**Next meeting dates:** Wed. 14 Nov. '01 Rm 437 State House from 1p.m. to 4p.m.

Commission to Study the Implementation of a Unified Emergency Response for  
Emergency Releases and Spills of Toxic or Hazardous Materials

Meeting Summary for November 14, 2001

**Present:** Co-chair Rep. Bob Duplessie; members Rep. Randy Berry, Rep. Bob Daigle, Joe Bolduc, John Cannon, Art Cleaves, Norman Cyr, Michael Hangee, Bill Hussey, Bill Libby, Jon Mahon, Barbara Parker for David Sait, and invited guests Matt Quinn from Clean Harbors, Scott Normandeau from Fleet Environmental and Bob White from GIS.

**Matt Quinn – Clean Harbors,** Clean Harbors was started in 1980 and currently employs 1400 people throughout the United States. The Maine site opened in 1985 and currently has 35 employees including laborers, health and safety officers and equipment operators. They have a 24-hour operation using 4 teams on a rotating schedule. Clean Harbor has a large base of businesses that rely on their services and they will respond based on a call placed by a business or the DEP.

They perform an array of services including site remediation, cleaning tanks and transportation of hazmats. They also respond to a wide range of incidents from oil/water spills, transportation spills, home incidents and chemical reactions. Some incidents may only involve a few drops, such as mercury and others involve thousands of gallons of material.

**Q?** Is your company capable of responding to bioterrorist incidents? In Maine?

**A:** Yes, Clean Harbors currently has 200 employees in NY. Clean Harbor has been involved in 'decon' at the post office. That capability exists in Maine as well.

**Q?** Do you respond or just cleanup?

**A:** We do both, although it's more than just clean up. We must follow special procedures that maintain federal approval.

**Q?** What about training?

**A:** Our training is handled in Kingston, MA. They do the 40 and 24 hour OSHA training.

**Q?** You do cleanup. Do you have the capacity to mitigate, such as stop/plug/patch tanks?

**A:** Yes. That's part of the business and what we do in Maine. Although because of the layout of the state, response time is tough in Maine.

**Q?** Do you have contracts that list you as the first responder? And, does the company call you first or local public safety?

**A:** Yes, both in Maine and throughout the U.S. We do Bath Iron Works, Pratt and Whitney and Mobil Oil, to name a few. When there's an incident (in Maine) the company is obligated to call DEP and their contract indicates they'll call Clean Harbor and they'll probably call their local fire department as well.



Communication as a tool is very important. We maintain a 24-hour call in service staffed by Clean Harbor personnel. We feel it's essential to have our employees handling the initial call. That's part of our service. If there's an incident in Maine that is larger than what we can handle other branches in NH, South Boston, CT and NJ are available to help.

**Q?** As for unified response, what is your experience working with other agencies and municipalities? Have you had any problem dealing with other agencies?

**A:** We will certainly respond. In the past, there have been times when the fire department has been called in and they're onsite. The facility called in DEP and Clean Harbors. We feel that the fire department will handle life-threat issues, DEP will deal with environmental impact and Clean Harbors will work to coordinate with the different responding agencies. It's a joint response. We haven't really experienced any problems. We talk with all that are involved and it normally works out great. It helps to have the cooperation of all and know who is there and what everybody's role is.

**Scott Normandeau – Fleet Environmental** Fleet has been around for 6-8 years. We'll cover Maine to PA, CT, South Boston, RI...We deal with oil spills, marine response, confined spills, and asbestos. We can transport hazmats, although we don't own a disposal facility and we can respond to bio-incidents, as well. We have a 24-hour response capability and we deal with the same or similar customers as Clean Harbors. Our scope is very similar to Clean Harbors; we're just smaller. Fleet started out as Seacoast Ocean Services and just expanded.

**Q?** What's the fee for pathogen cleanup?

**A:** There's an hourly rate based on the materials. The rates are developed in conjunction with DEP and there's a TM rate sheet for emergency response. Normally because of the emergency nature there isn't time to send an 'analysis team' in ahead.

**Comments:** considering statewide response, I'm surprised there's no company north of Bangor. County Environmental is there. Maybe in Caribou? It's another company. It's smaller but available. DEP has the legal authority to make the call (when there's an incident). They can pick up the cost if there is no responsible party. Response is often difficult with multiple incidents in a state the size of Maine.

**Q?** With bioterrorism, has there been additional training?

**A:** Yes, Clean Harbors has a program to train for handling bioterrorism. Our health and safety office, through the corporation makes sure the training is available. Often it's just a 1-hour refresher course. Our basic training course is designed to cover or exceed OSHA and federal guidelines.

**Q?** In a bioterrorism incident, do you respond in a level A suit?

**A:** It depends on the situation, but probably a level B suit. From my personal experience, I have only responded twice in 20 years with a level A. It's not like the fire department that is often first on the scene. When we're called in, we usually know the exposure risk before our folks are sent in.

## **User fees & fee structures of hazmat teams**

Staff referred to the chart prepared that listed each of the current hazmat teams, their fee structure and the areas they covered. (See handout.) Response to the phone survey for information was very effective. All teams provided some information although one team gave only general information about the categories of charges they billed for, yet did not have specific amounts\*. Fees for the 17 teams ranged from non-existent (some teams don't charge) to cost recovery to \$2200 an hour with a minimum charge of 4 hours. There was no standard cost structure for the teams as some teams had no set structure in place and other teams were very specific for each piece of equipment and the personnel responding.

\*Note—International Paper has since called in and reported that they use an average hourly charge of \$49 per respondent and \$150 per hour for their hazmat van. If feasible, they will also bill for cost recovery. Their coverage area is mostly Franklin County, although they will respond to Androscoggin and Kennebec county incidents as well.

**Q?** For those who charge fees is there any trouble collecting?

**A:** There certainly can be. Sometimes it takes years or even a court settlement to get payment. Teams (especially industry teams) want to respond and do the right thing but they need to be able to recoup costs in order to continue.

In the past, the spiller was usually identifiable. That may not always be the case anymore.

## **EHS facility maps, transportation route reporting**

**Bob White – GIS and Art Cleaves – MEMA** Bob White offered a presentation of GIS maps of Maine indicating an overlay of battery recycle facilities, waste water facilities, sites with a single extremely hazardous substance, and sites with multiple EHS. He then showed the rail transportation routes and indicated there were often areas around the tracks where no response teams existed.

Using an analysis of teams, roads, speed limit and other factors the potential 1-hour response distances were estimated and displayed on the map. The mapping system is very powerful because it can take into account time of day, curves in the road and even traffic patterns in order to evaluate travel distances. The map pointed out some areas where coverage was lacking, most notably in the Houlton/Presque Isle area, the coast and Ellsworth area and western Maine.

**Comment:** In the past SERC identified the 12/13 areas of coverage but it was all done with pushpins and highlighters, not with the sophistication of the GIS plan.

**Q?** Is it possible to do a population density overlay? Seasonal?

**A:** I'll look at it. I think the population density is possible although I'm not sure if the seasonal data is available in the right format.

## **Worker's comp & liability issue**

**Bill Libby – MEMA** The department has a carryover bill that's mostly a housekeeping bill for changes. Title 37B deals with immunity and workers comp. coverage and there is room for interpretation there that can cause problems. Looking at the handout of the email from Dennis Harnish, this commission would need to make a special request of the AG's office in order to allow them to draft any changes.

**Comments:** The legislation would need to include some basis of command structure in order for the state to cover liability and workers comp. It would need to address what the chain of command is for making a call about an incident and maybe some safeguards regarding the credentials of responders.

Staff offered to create a work up draft including the changes the commission is interested in making.

## **Preliminary findings & recommendations**

- **Enhance existing teams**

Comments: We need to look at the biggest gaps and find a way to get an effective team there. We need to support and enhance the existing teams and fill any voids. We have to be aware of response time and ability to respond 24/7.

- **Worker's comp & liability issue**

Comments: We need an agency with organization and structure to handle the liability. When there's an incident, a call to the regional MEMA office to coordinate the response sets up the liability/workers' comp. with the county. We need a structure to use as a 'hub' to connect the responders into the system. Possibly use DEP as coordinator, also for quality control of teams to make sure members have the proper physicals and training and appropriate refresher training. We need to create some sort of employee/employer relationship, whether with DEP, MEMA, or the County to deal with the liability/workers' comp. issue. We need to be concerned about mandatory control, about letting DEP decide when and where to send a team. A company needs to feel some control over when to send their employees to an incident.

- **Support local efforts**

Comments: Other resources exist and not all teams have stepped forward because of the liability/workers' comp. issue or they don't want to go off site to handle situations they're not fully prepared for. Companies may be less reluctant if some of these issues were resolved. If DEP were seen as the 'employer' during a response, it would allow small businesses to offer some of their employees as a part of a team without having to field a full team. Using the umbrella of DEP, teams could be coordinated for areas that are under-covered or under-served.

We need to create some incentive or stipend to motivate volunteers to get the training they need to commit to operational or technician level training. DEP wants to designate an employee in each of its regional offices to help work with and coordinate with local teams.

- **Others?**

Maine Forest Service already has a successful model for their employees. We should take a look at that.

**Next meeting dates:**

- Wed. 12 Dec. '01 Rm. 437 State House from 1 p.m. to 4 p.m.

For additional information requests for future meetings, if time permits, materials will be sent to members prior to meetings. For those members responsible for providing additional information, please provide the material to Commission staff with enough time for the material to be prepared and sent to members.

Meeting Summary for November 28, 2001

**Present:** Co-chairs Sen. Anne Rand, Rep. Bob Duplessie; members Rep. Randy Berry, Rep. Bob Daigle, John Cannon, Norman Cyr, Bill Hussey, Michael Hangge, Ray Lussier, Joe Bolduc, Gary Fortier, Art Cleaves, Bill Libby, Jon Mahon, David Sait, David Wacker.

**Workers' Comp & Liability**

- Staff walked the commission through the side-by-side analysis of the draft proposed legislation that would clarify workers' comp and liability coverage for emergency responders.
- Members recommended changes to the draft that would clarify that those called out by State, county and municipal public safety officials would be covered by State workers' comp.
- Members recommended language to be added to clarify that persons provided with liability immunity must be considered properly trained.
- Members discussed whether or not it was their intention to provide this level of coverage and whether there was an actual change in level of coverage – or simply a clarification to allow proper interpretation of who is already covered.
- David Sait pointed out that increasing coverage would take fewer resources than trying to create full-time teams.
- David Wacker has some concerns with the State taking liability for incidents involving death, especially when the State does not control the level of training for many responders.

**Q?** How does each State agency handle workers' comp and liability coverage and claims?

**A:** Staff will invite representatives from DAFS to discuss this issue at the next meeting.

- Members discussed the issue of statewide certification and/or a statewide incident command model.
- Some members contended that private responders deserve an increased level of coverage because they currently take risks that are beyond their actual scope of responsibility in order to provide community service and to protect public safety.
- Another way to handle coverage would be to say that whoever calls the responder out is responsible.
- Another option is to develop a statewide mutual aid agreement.
- If there were specialized regional teams, there would be less of a liability risk.
- David Wacker suggested that fuel spills be excluded from the definition of hazmat to decrease liability risk.
- Some members feel that the biggest challenge for hazmat responders is the recovery of costs, especially for smaller towns.

- Private responders have two primary concerns: workers' comp and liability coverage. Until this issue is resolved, many will not respond off-site. Resolving this issue is critical because it's the most cost effective way to provide an incentive for response.
- The commission discussed the 1986 Hazmat Response Study. Many of the problems discussed in that report are still being dealt with today. Members pointed out that much progress has been made as well.
- Some members stated that they could accept the draft legislation if there was a statewide standard for certification and training.
- Art Cleaves pointed out that all responders should be certified. The issue is that certification is not standardized. For the most part, each local fire chief handles certification for their own team.
- David Sait pointed out that standardization does not need to be onerous, just a show of confidence.
- The commission voted on the draft – 15 in favor, 1 opposed.

### **Incident Command Models**

- Staff shared information on the MFS Forest Fire Control Program model.
- Highlights include the borrowed fire fighter policy and the fact that this program has similar issues concerning incentives for responders.
- David Wacker pointed out that the Maine Fire Protection Services Commission is looking at the issue of fire fighter retention. Staff will look into this and bring information to the next meeting.
- David Sait briefed the commission on the model that DEP uses – the US Coast Guard Incident Command System.

### **Certification**

- Currently certification occurs at the local level, responsibility of the fire chief.
- The SERC is looking at coming up with a standardized ID card to show level of training. The cards would include a space on the back for an employer's certifying signature.
- The LEPCs review local plans very carefully. This acts as a check on training levels. However, LEPCs are volunteer organizations and are often over-burdened. Their quality varies across the state.
- Standardized training and/or certification should not be to onerous; otherwise it will be a disincentive.
- A SERC subcommittee is looking into the certification issue more carefully.

### **Preliminary Findings & Recommendations**

- The Commission went through their draft findings and recommendations and made changes and deletions.

Commission to Study the Implementation of a Unified Emergency Response for  
Emergency Releases and Spills of Toxic or Hazardous Materials

Meeting Summary for December 12, 2001

**Present:** Chair Rep. Bob Duplessie; members Sen. Tom Sawyer, Rep. Bob Daigle, Tom Blaisdell (for John Cannon), Norman Cyr, Bill Hussey, Michael Hangge, Ray Lussier, Gary Fortier, Art Cleaves, Bill Libby, Jon Mahon, David Sait, David Wacker.

### **Workers' Comp & Liability**

- David Fitts and Earle Pease of DAFS Risk Management and Workers' Comp presented information to the Commission regarding how the State handles workers' comp and liability insurance.
- David Fitts talked about the Borrowed Firefighter Policy held by MFS, and potential issues involved with hazmat responders getting similar coverage. Below are items he listed as particularly important:
  - Standardized training
  - General notion of the number of responders that could respond
  - One State agency should be authorized to call out responders
- Earle Pease discussed issues related to workers' comp coverage
  - Workers' comp is considered an employee benefit so responders should fit definition of employee found in Title 39, § 102.
- The Commission discussed the MFS Forest Fire Control Program model and how it could best be replicated.

### **Maine Fire Chiefs**

- Representatives of Maine Fire Chiefs were in attendance in the audience.
- They offered a proposal that establishes their support for a statewide mutual aid agreement.

### **Incident Command**

- The Departments of Conservation, Environmental Protection, Inland Fisheries and Wildlife, Marine Resources, Public Safety, and Defense and Veterans' Services have signed a memorandum of agreement that adopts the National Interagency Incident Management System (NIMS) as a statewide incident command system.
- The Commission determined that most teams in the state follow a model based on NIMS and therefore it is not an issue that requires further investigation or recommendation.

### **Findings & Recommendations**

- The Commission reviewed their preliminary findings and recommendations and directed staff to make appropriate changes for the final report.

- Art Cleaves agreed to provide information to the Legislature summarizing activities of the Terrorism Task Force to respond to the Commission's recommendation on the allocation of grant funds overseen by the Task Force.
- The Commission directed staff to make changes to the legislation proposal on workers' comp and liability to better mirror MFS Forest Fire Control Program.
- The Commission decided to delete its recommendation on incident command in the final report based on information provided on the statewide incident command system.
- The Commission decided to reestablish its recommendation on a standardized training certification program by directing MEMA, DEP, DOL, in consultation with DAFS, to devise a standardized training certification program.

### **Final Report**

- Staff informed the Commission of the review process that needed to take place to meet the January 2 deadline.
- A draft will be sent out by e-mail no later than 12/21/01 and members will need to get comments back to staff by 12/28/01
- Any substantive changes will be discussed with the Chairs.



**APPENDIX E**  
**Proposed Legislation**

**An Act Regarding Workers' Compensation and Liability Immunity Coverage for  
Emergency Management Forces**

Be it enacted by the People of Maine as follows:

**Sec. 1. 37-B MRSA § 1, first paragraph** is amended to read:

The Department of Defense, Veterans and Emergency Management, as previously established and referred to in this Title as the “department,” shall coordinate and improve the discharge of the State Government’s responsibility for military affairs, veterans’ services and ~~civil~~ emergency ~~preparedness~~ management matters.

**Sec. 2. 37-B MRSA § 703 sub-§ 1** is repealed.

**Sec. 3. 37-B MRSA §703, sub-§2-A** is enacted to read:

**2-A. Emergency management.**  
coordination and implementation of an organized effort to mitigate against, prepare for, respond to and recover from a disaster.

**Sec. 4. 37-B MRSA § 703, sub-2-B** is enacted to read:

**2-B. Emergency management forces.** “Emergency management forces” means persons engaged in performing emergency management activities, including, but not limited to persons called out by the Governor pursuant to an emergency proclamation under section 742 or persons called out pursuant to section 784-A;

**Sec. 5. 37-B MRSA § 703, sub-§ 3** is amended to read:

**3. Local organization for emergency management.** “Local organization for ~~civil~~ emergency ~~preparedness~~ management” means an organization created in accordance with this chapter by state, county, or local authority to perform local ~~civil~~ emergency ~~preparedness~~ management functions.

**Sec 6. 37-B MRSA § 784-A** is enacted to read:

**§ 784-A. Right to call and employ assistance**

The Maine Emergency Management Agency and local organizations for emergency management may employ any person considered necessary to assist with emergency management activities. All called and employed for assistance shall proceed as directed by the Maine Emergency Management Agency. Any person called and employed for assistance is deemed to be an employee of the State for purposes of immunity from liability pursuant to section 822 and for purposes of

workers' compensation insurance pursuant to section 823, except for persons excluded from the definition of employee pursuant to Title 39—A, section 102, subsection 11.

**Sec. 7. 37-B MRSA §822** is amended to read:

**§822. Immunity**

Neither the State nor any of its agencies or political subdivisions nor a person called out pursuant to section 784-A, including a voluntary and uncompensated grantor of a permit for the use of the grantor's premises as a civil emergency preparedness shelter, may, while engaged in any ~~civil emergency preparedness~~ management activities and while complying with or attempting to comply with this chapter or any rule adopted pursuant to this chapter, be liable for the death of or injury to any person, or damage to property, as a result of those activities. This section does not affect the right of any person to receive benefits to which that person would otherwise be entitled under this chapter, under the Maine Workers' Compensation Act of 1992, under any pension law or under any act of Congress.

**Sec. 8. 37-B MRSA § 823** is amended to read:

**§823. Compensation for injuries received in line of duty**

All members of the ~~civil emergency preparedness~~ management forces are deemed to be employees of the State while on, or training for, ~~civil emergency preparedness~~ management duty. They have all the rights given to state employees under the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992. All claims must be filed, prosecuted and determined in accordance with the procedure set forth in the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992.

**1. Average weekly wage.** In computing the average weekly wage of any claimant under this section, the average weekly wage must be taken to be the earning capacity of the injured person in the occupation in which the injured person is regularly engaged.

**2. Setoff.** Any sums payable under any act of Congress or other federal program as compensation for death, disability or injury of ~~civil emergency preparedness~~ management workers must be considered with the determination and settlement of any claim brought under this section. When payments received from the Federal Government are less than an injured member would have been entitled to receive under this section, the injured member is entitled to receive all the benefits to which the injured member would have been entitled under this section, less the benefits actually received from the Federal Government.

**Sec. 9. Title 37-B MRSA amended; revision clause.** Wherever in Title 37-B MRSA the words “civil emergency preparedness” appear or reference is made to those words, they are amended to read and mean “emergency mana

### **SUMMARY**

This bill is the recommendation of the Commission to Study the Implementation of a Unified Emergency Response for Emergency Releases and Spills of Toxic or Hazardous Materials. It clarifies who may call out and be called out to assist with emergency management activities. It also clarifies who, while assisting with emergency management activities, may be deemed to be an employee of the State for purposes of immunity from liability and for purposes of workers’ compensation coverage. The bill also makes necessary changes to cross-references.

## **An Act to Require Additional Transportation Information on the Maine Chemical Inventory Reporting Form**

Be it enacted by the People of Maine as follows:

**Sec. 1. 37-B MRSA § 797** is amended to read:

A person required to submit a facility emergency response plan, material safety data sheet or list of hazardous chemicals and extremely hazardous substances must submit a Maine chemical inventory reporting form to the commission, the local emergency planning committee and the local fire department with jurisdiction over the facility. The inventory reporting form and fee must be submitted by March 1st annually for the previous calendar year, except that the inventory reporting form and fee may be submitted with the registration fee in the year of reporting if the reporting facility can project its inventory levels for the current year. Information on the inventory of extremely hazardous substances and hazardous chemicals for the previous calendar year is required on the form. These forms must state, at a minimum:

- 1. Chemical name.** The chemical name of each substance listed;
- 2. Maximum weight.** The maximum number of pounds of each substance present at any time during the preceding year;
- 3. Average amount.** The average daily amount of each substance present during the preceding year;
- 4. Chemical storage.** A brief description of the manner of the chemical's storage;
- 5. Chemical location.** The chemical's location at the facility;
- 6. Information withholding.** An indication if the person is electing to withhold information from disclosure under section 800;
- 7. Transportation.** A description of the manner in which the substance is shipped to the facility, including standard and alternate transportation routes taken through Maine from point of origin or entry to facility; and
- 8. Progress toward toxics use reduction goals.** For those persons required to submit a form under this section for extremely hazardous substances, a report on the progress made by the facility toward meeting the toxics use reduction goals established in Title 38, section 2303.

## **SUMMARY**

This bill is the recommendation of the Commission to Study the Implementation of a Unified Emergency Response for Emergency Releases and Spills of Toxic or Hazardous Materials. It requires that a person required to submit a Maine chemical inventory reporting form must include information regarding a description of the manner in which chemicals are shipped to a facility, including standard and alternate transportation routes taken through Maine.

**APPENDIX F**

**HAZMAT Team Fees and Response Areas**

### HAZMAT TEAM FEES AND RESPONSE AREA

Team	Fee	Response Area
Anson/Madison Hazmat	None	Mutual Aid agreement w/ F.D. of Madison, Anson, Starks, Solon and Skowhegan.
Domtar HazMat Team	No charge, just cost recovery	Abt. 25 mile radius (+ or - 5 or 10 miles) Subject to change, if necessary.
Gorham, Westbrook & Windahm Hazmat Team	\$1000 hr for Hazmat truck with equip., \$85 hr for engine, \$85 hr for command vehicle, \$85 hr for squad truck plus labor	Mostly Cumberland and York counties and some of Androscoggin--although will go where needed.
Franklin County Hazmat Team	Bill spiller based on cost	Respond anywhere needed.
Great Northern Paper	If the spiller is resident or small business, bill for equip. cost. If assisting town for non-resident (like traffic incident) bill for equip. cost plus 1.5 times the salary of the responders.	Surrounding area and towns covered by Mutual aid agreements plus layer of unorganized territories.
Kennebec Valley Hazmat Team	\$2200 hr plus cost recovery to nonmembers or \$500 annual dues plus equip. cost to members (no hourly fee.)	20-35 mile radius of Waterville--Skowhegan to Augusta or Pittsfield. Mutual aid agreement w/ Sappi.
International Paper Hazmat Team	\$49 hr per responder (salary + 1.4% for benefits) plus \$150 hr for van plus cost recovery	Franklin County mostly, although will go to Androscoggin or Kennebec depending on the situation.
Madawaska Hazmat Team	\$2000 per hour with a minimum of 4 hours.	50 mile radius of Madawaska.
MEAD Emergency Response Team	None	Oxford county although further if needed.
Mid-Coast Hazmat Team	Cost recovery	Cumberland county from Falmouth north, souther Androscoggin, Sagadahoc and Lincoln counties.
NAS Brunswick Fire Department	\$1000 hr for trailer w/equip. and materials, \$1050 hr for truck to haul.	Mid-coast. Freeport to Wiscasset and would basically respond anywhere.
Orono Fire Department	\$1000 hr with a minimum of 4 hours plus cost recovery	Mutual Aid agreement w/ Bangor, Brewer, Glenburn, Milford, Old Town, Orono, & Veazie, although will respond where ever called.
Osram HazMat Team	Currently just cost recovery and lost wage time for emps. who respond.	Mutual aid agreement throughout Lincoln County.



### HAZMAT TEAM FEES AND RESPONSE AREA

Team	Fee	Response Area
Portsmouth Naval Shipyard Fire Dept.	Materials only	York county only.
Rockland Hazmat Team	No charge unless specific spiller is responsible and billable. Try to absorb costs as best they can.	Mutual aid system with Knox County and Waldoboro and Lincolnville.
Sappi Somerset Emergency Response Team	Nothing set. Bill based on cost recovery if possible--not always feasible. Company covers labor cost.	Mostly Somerset and Kennebec County. Mutual aid agreement with Skowhegan and Waterville--if they call we respond. Respond if needed.
South Portland Fire Dept.	\$150 hr per engine, \$150 hr per ladder, \$100 hr for rescue truck, plus personnel cost and equip. cost recovery. Minimum of \$150.	Mutual aid communities within abt 20 miles--abt 1/2 of Cumberland County. Can go beyond if requested. Need clearance from County commissioners to go outside of county.