

**RIGHT TO KNOW ADVISORY COMMITTEE
PUBLIC RECORDS EXCEPTIONS SUBCOMMITTEE**

DRAFT AGENDA
November 4, 2013
1:00 p.m.
Room 438, State House, Augusta

Convene

1. Welcome and Introductions
Suzanne Goucher, Chair
2. Exceptions Tabled/Voted at September 25th Meeting Needing Further Review:
 - Title 22, section 8754, related to reporting of sentinel events *{chart: 3}*
 - Title 22, sections 1696-D and 1696-F, related to the Community Right-to-Know Act *{chart 1, 2}*
 - Title 28, section 755, related to liquor licensees' business and financial records *{chart: 6}*
 - Title 35-A, section 8703, subsection 5, related to telecommunications relay service communications *{chart 19}*
 - Title 37-B, section 708, subsection 3, related to documents collected or produced by the Homeland Security Advisory Council *{chart 24}*
 - Title 38, section 414, subsection 6, related to records and reports obtained by the Board of Environmental Protection *{chart 26}*
 - Title 38, section 470-D, related to individual water withdrawal reports *{chart 27}*
3. Review of Existing Exceptions in Titles 26 to 39-A *{chart 30 to 39}*
4. Future Process for Review
 - Re-establish same process and timetable for review?
 - How to address "new" exceptions enacted since initial RTK AC review?
5. Other?

Adjourn

Public Records Exceptions Subcommittee

**Existing Public Records Exceptions, Title 22 and Titles 26 – 39-A
Statutes remaining after 2012 review**

Revised 10/1/2013 10:42 AM

TITLE	SECTION	SUB-SECTION	DESCRIPTION	DEPARTMENT/ AGENCY	COMMENTS	2012 SUBCOMMITTEE ACTIONS	2013 SUBCOMMITTEE RECOMMENDATIONS
1	22	1696-D	Title 22, section 1696-D, relating to the identity of chemical substances in use or present at a specific location if the substance is a trade secret	<ul style="list-style-type: none"> DHHS 	<ul style="list-style-type: none"> No record of any experience No changes 	11/8/: AMEND; see LD 420	9/11: Tabled; ask DHHS for input 9/25: Amend as proposed in LD 420; send letter to policy committees
2	22	1696-F	Title 22, section 1696-F, relating to the identity of a specific toxic or hazardous substance if the substance is a trade secret	<ul style="list-style-type: none"> DHHS 	<ul style="list-style-type: none"> No record of any experience No changes 	11/8/: AMEND; see LD 420	9/11: Tabled; ask DHHS for input 9/25: Amend as proposed in LD 420; send letter to policy committees
3	22	8754	Title 22, section 8754, relating to medical sentinel events and reporting	<ul style="list-style-type: none"> DHHS Maine Hospital Assn Maine Medical Assn Maine Medical Mutual Ins. Co. Maine Osteopathic Assn 	<ul style="list-style-type: none"> No requests known DHHS: Amend: "incidents reports and similar documents"; no change to scope of confidentiality Stakeholders: No change to confidentiality 	8/2: Amend to repeal; to be drafted 9/17: Tabled--ask DHHS and others for input 10/5: Tabled 11/15: Tabled 1/11/13: Tabled---more research and discussion	9/11: Tabled; more research and discussion 9/25: Tabled
4	26	3	Title 26, section 3, relating to information, reports and records of the Director of Labor Standards within the Department of Labor	<ul style="list-style-type: none"> DECD SPO/OPM DOL 	<ul style="list-style-type: none"> DECD SPO/OPM? DOL: no more than one or 2/year; NO CHANGE 	9/13: Tabled-- discuss potential amendments with DOL 11/8: AMEND; see LD 420	9/11: Amend as proposed in LD 420

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5	26	934	Title 26, section 934, relating to report of the State Board of Arbitration and Conciliation in labor dispute	<ul style="list-style-type: none"> State Board of Arbitration and Conciliation 	<ul style="list-style-type: none"> No requests NO CHANGE 	9/13: Tabled—ask Board for input 11/8: Amend	9/11: Amend as proposed in LD 420
6	28-A	755	Title 28-A, section 755, relating to liquor licensees' business and financial records	<ul style="list-style-type: none"> DAFS: BABLO 	<ul style="list-style-type: none"> Not being collected now Unresolved by Legislature in 125th Support change but recommend NO CHANGE for now 	9/13: Tabled until 2013; Dept. legislation expected in 126 th Legislature, First Session	9/11: Tabled; ask BABLO to update questionnaire 9/25: Tabled
7	29-A	152	Title 29-A, section 152, subsection 3, relating to the Secretary of State's data processing information files concerning motor vehicles	<ul style="list-style-type: none"> SOS 	<ul style="list-style-type: none"> Estimate: 12-20 times per year) NO CHANGE – comply with Federal Driver Privacy Protection Act 	8/8: Amend	9/11: Amend as proposed in LD 420
8	29-A	257	Title 29-A, section 257, relating to the Secretary of State's motor vehicle information technology system	<ul style="list-style-type: none"> SOS 	<ul style="list-style-type: none"> No request NO CHANGE 	8/8: Tabled—flag inconsistency with other provisions; ask OIT for input 9/13: Tabled 11/8: Repeal	9/11: Repeal as proposed in LD 420
9	29-A	517	Title 29-A, section 517, subsection 4, relating to motor vehicle records concerning unmarked law enforcement vehicles	<ul style="list-style-type: none"> SOS 	<ul style="list-style-type: none"> Estimate: 1-2 every couple of years NO CHANGE 	8/8: Amend—strike 2 nd ¶ because same language in #12	9/11: Amend as proposed in LD 420
10	30-A	503	Title 30-A, section 503, subsection 1-A, relating to county personnel records concerning the use of force	<ul style="list-style-type: none"> Counties – Joe Brown and Tim Leet? 	<ul style="list-style-type: none"> Kennebec County: No requests NO CHANGES 	11/8: Tabled; ask AG for input	9/11: No change

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11	30-A	2702	Title 30-A, section 2702, subsection 1-A, relating to municipal personnel records concerning the use of force	<ul style="list-style-type: none"> • <i>Municipalities</i> 	See # 20	11/8: Tabled; ask AG for input	9/11: No change
12	32	2599	Title 32, section 2599, relating to medical staff reviews and hospital reviews – osteopathic physicians	<ul style="list-style-type: none"> • Osteopathic Licensing Board 	<ul style="list-style-type: none"> • 	11/8: Tabled; ask for input from Board and providers 11/15: Tabled	9/11: No change
13	32	3296	Title 32, section 3296, relating to Board of Licensure in Medicine medical review committees	<ul style="list-style-type: none"> • Medical Licensing Board 	<ul style="list-style-type: none"> • Accusations of unprofessional conduct or incompetence if found to be without merit are damaging • Investigative records include individual patient info • NO CHANGE 	11/8: Tabled; ask for input from Board and providers 11/15: Tabled	9/11: No change
14	32	13006	Title 32, section 13006, relating to real estate grievance and professional standards committees hearings	<ul style="list-style-type: none"> • Real Estate Commission 	<ul style="list-style-type: none"> • No experience; applies to records of hearings held by professional trade associations • NO POSITION: Why part of Real Estate Brokerage Act? 	11/8: Tabled; ask Maine Association for input; is this necessary?	9/11: No change

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15	32	16607	Title 32, section 16607, subsection 2, relating to records obtained or filed under the Maine Securities Act	<ul style="list-style-type: none"> • DPFR: Securities Regulation 	<ul style="list-style-type: none"> • Seven requests: 5 requests partially denied to protect investigative records; 2 denied because only investigative records requested • NO CHANGE 	11/8: Tabled; ask Office of Securities for input	9/11: No change
16	34-A	5210	Title 34-A, section 5210, subsection 4, relating to the State Parole Board report to the Governor	<ul style="list-style-type: none"> • Dept. of Corrections 	<ul style="list-style-type: none"> • Requested 2-3 times per year • AMEND: clarify that applies regardless of entity advising Governor 	8/8: Tabled—ask Governor's Office for input 9/13: Tabled 11/8: Tabled	9/11: Tabled; DOC info on parolees 9/25: No change
17	35-A	1311-B	Title 35-A, section 1311-B, subsections 1, 2 and 4, relating to public utility technical operations information	<ul style="list-style-type: none"> • PUC 	<ul style="list-style-type: none"> • Occasional requests • NO CHANGE 	11/8: Tabled; ask PUC for input	9/11: No change
18	35-A	1316-A	Title 35-A, section 1316-A, relating to Public Utilities Commission communications concerning utility violations	<ul style="list-style-type: none"> • PUC 	<ul style="list-style-type: none"> • No requests • NO CHANGE 	11/8: Tabled; ask PUC for input	9/11: No change
19	35-A	8703	Title 35-A, section 8703, subsection 5, relating to telecommunications relay service communications	<ul style="list-style-type: none"> • PUC 	<ul style="list-style-type: none"> • Does not come through PUC • Could be worded more clearly 	11/8: Tabled; ask PUC for input	9/25: Amend; to be drafted with PUC input
20	35-A	9207	Title 35-A, section 9207, subsection 1, relating to information about communications service providers	<ul style="list-style-type: none"> • PUC • ConnectME Authority 	<ul style="list-style-type: none"> • No requests • NO CHANGE 	11/8: Tabled; ask PUC for input	9/25: No change

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21	36	575-A	Title 36, section 575-A, subsection 2, relating to forest management and harvest plan provided to Bureau of Forestry and information collected for compliance assessment for Tree Growth Tax Law	<ul style="list-style-type: none"> Dept. of Conservation Maine Revenue Services 	<p>DOC:</p> <ul style="list-style-type: none"> New, closely parallels §579 Never received a request under §579 NO CHANGES 	<p>(added by PL 2011, c. 619)</p> <p>11/8: Tabled; ask for input from Bureau of Forestry and MRS</p>	9/25: No change
22	36	579	Title 36, section 579, relating to the Maine Tree Growth Tax Law concerning forest management plans	<ul style="list-style-type: none"> Municipal assessors Maine Revenue Services 	<p>MRS:</p> <ul style="list-style-type: none"> No position <p>MUNICIPALITIES</p> <ul style="list-style-type: none"> 14 municipalities responded Few requests 7 recommend NO CHANGE 2 recommend AMEND to allow Board of Assessors access 5 recommend that AMEND to make plans public 	<p>11/8: Tabled; ask for input from Bureau of Forestry and MRS and municipal assessors</p>	9/25: No change

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23	1106-A	3	Title 36, section 1106-A, subsection 3, paragraph D, relating to forest management and harvest plan made available for Farm and Open Space Tax Law	<ul style="list-style-type: none"> • <i>Municipal assessors</i> • Dept. of Conservation • Maine Revenue Services 	<p>MUNICIPALITIES</p> <ul style="list-style-type: none"> • 12 municipalities responded • No requests (new law) • 6 recommend NO CHANGE • 2 recommend AMEND to allow Board of Assessors access • 4 recommend AMEND to allow public access <p>DOC:</p> <ul style="list-style-type: none"> • New, closely parallels §579 • Never received a request under §579 • No provision to review plans under this section • NO POSITION <p>MRS:</p> <ul style="list-style-type: none"> • NO POSITION • No requests • NO CHANGE 	<p>(added by PL 2011, c. 618, §7)</p> <p>11/8: Tabled; ask for input from DOC, MRS and municipal assessors</p>	<p>9/25: Tabled to 2014</p>
24	37-B	3	Title 37-B, section 708, subsection 3, relating to documents collected or produced by the Homeland Security Advisory Council	<ul style="list-style-type: none"> • DVEM: MEMA 	<p>NO POSITION</p> <ul style="list-style-type: none"> • No requests • NO CHANGE 	<p>11/8: Tabled; ask for more information</p>	<p>9/25: Tabled</p>

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25	37-B	797	Title 37-B, section 797, subsection 7, relating to Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency reports of hazardous substance transportation routes	<ul style="list-style-type: none"> DVEM: MEMA 	<ul style="list-style-type: none"> 1 – 2 request per year for general info NO CHANGE 	11/8: Tabled; ask for more information	9/25: No change
26	38	414	Title 38, section 414, subsection 6, relating to records and reports obtained by the Board of Environmental Protection in water pollution control license application procedures	<ul style="list-style-type: none"> DEP BEP 	<ul style="list-style-type: none"> DEP: 1-2 requests per year NO CHANGE BEP: No need to access info in proceedings NO POSITION; Clarify by including cross-reference to definition of trade secret? 	11/8: Tabled; ask DEP and BEP for more information	9/25: Tabled
27	38	470-D	Title 38, section 470-D, relating to individual water withdrawal reports	<ul style="list-style-type: none"> DEP 	<ul style="list-style-type: none"> No requests Information reported in aggregate NO CHANGE 	11/8: Tabled; ask DEP for more information	9/25: Tabled
28	38	585-B	Title 38, section 585-B, subsection 6, relating to mercury reduction plans for air emission source emitting mercury	<ul style="list-style-type: none"> DEP 	<ul style="list-style-type: none"> No requests by facilities to keep information confidential REPEAL 	11/8: Amend; see LD 420	9/11: Amend as proposed in LD 420

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29	38	585-C	Title 38, section 585-C, subsection 2, relating to the hazardous air pollutant emissions inventory	<ul style="list-style-type: none"> DEP 	<ul style="list-style-type: none"> No requests by facilities to keep information confidential for at least 10 years REPEAL 	11/8: Amend	9/11: Amend as proposed in LD 420
30	38	1310-B	Title 38, section 1310-B, subsection 2, relating to hazardous waste information, information on mercury-added products and electronic devices and mercury reduction plans	<ul style="list-style-type: none"> DEP 	<ul style="list-style-type: none"> Few requests for each type of info; Concerns that electronic filing often means DEP has multiple copies of confidential information; lack of locked storage space for confidential records NO CHANGE 	11/8: Tabled; ask DEP for more information	
31	38	1610	Title 38, section 1610, subsection 6-A, paragraph F, relating to annual sales data on the number and type of computer monitors and televisions sold by the manufacturer in this State over the previous 5 years	<ul style="list-style-type: none"> DEP 	<ul style="list-style-type: none"> No requests Manufacturers do mark portions of annual filing as confidential and info is segregated from public files NO CHANGE 	11/8: Tabled; ask DEP for more information	

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32	1661-A	4	Title 38, section 1661-A, subsection 4, relating to information submitted to the Department of Environmental Protection concerning mercury-added products	• DEP	<ul style="list-style-type: none"> • 2 requests made for confidential info • DEP followed process in § 1310-B, sub-§ 2 and requested info was able to be provided or summarized info provided • NO CHANGE 	11/8: Tabled; ask DEP for more information	
33	2307-A	1, 5	Title 38, section 2307-A, subsections 1 and 5, relating to information submitted to the Department of Environmental Protection concerning toxics use and hazardous waste reduction (REPEALED 7/1/12)	• DEP	<ul style="list-style-type: none"> • Only 1 request • Replaced by new statute; rules pending to implement confidentiality provision (38 MRSA § 2324, sub-§3) • CONTINUE; NO CHANGE 	11/8: Tabled; ask DEP for more information	
34	39-A	5	Title 39-A, section 153, subsection 5, relating to the Workers' Compensation Board abuse investigation unit	• Workers' Compensation Board	<ul style="list-style-type: none"> • Average of 6 times per year • NO CHANGE 	11/8: Amend; but HOLD for review in 2013	
35	39-A	9	Title 39-A, section 153, subsection 9, relating to the Workers' Compensation Board audit working papers	• Workers' Compensation Board	<ul style="list-style-type: none"> • No requests • NO CHANGE 	11/8: Tabled; ask WCB for more information	
36	39-A	11	Title 39-A, section 355-B, subsection 11, relating to records and proceedings of the Workers' Compensation Supplemental Benefits Oversight Committee concerning individual claims	• Workers' Compensation Board	<ul style="list-style-type: none"> • No requests • NO CHANGE 	11/8: Tabled; ask WCB for more information	

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37	39-A	403	Title 39-A, section 403, subsection 3, relating to workers' compensation self-insurers proof of solvency and financial ability to pay	• BOI	<ul style="list-style-type: none"> • No requests • NO CHANGE 	11/8: Tabled; ask BOI for more information	
38	39-A	403	Title 39-A, section 403, subsection 15, relating to records of workers' compensation self-insurers	• BOI	<ul style="list-style-type: none"> • Requests are rare • NO CHANGE 	11/8: Tabled; ask BOI for more information	
39	39-A	409	Title 39-A, section 409, relating to workers' compensation information filed by insurers concerning the assessment for expenses of administering self-insurers' workers' compensation program	• BOI	<ul style="list-style-type: none"> • No requests • AMEND; clarify that already included within § 403, sub-§ 15 exception 	11/8: Tabled; ask BOI for more information	

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To: Public Records Exceptions Subcommittee

From: Stephen Wagner

Date: November 4, 2013

Re: Experiences of California, Minnesota and Florida With Sentinel Event Reporting That Publically Discloses the Reporting Institutions' Identity

Summary:

This memorandum explores the experiences of three states: California, Florida, and Minnesota. The previous memorandum regarding sentinel events identified these three states as states with sentinel or adverse event reporting laws that do not provide for the confidentiality of the names of the hospital. Specifically, this memorandum explores the statutory language, the legislative history, the agreements of proponents and opponents, the implementation of the law, and the impact of the confidentiality provision based on news, third-party commentary, and statements of certain stakeholders.

Overall, based on the experiences of these three states, it is hard to draw any conclusive results. California's adverse event reporting law, modeled after the Minnesota law, has received a considerable amount of criticism because of underreporting of adverse events. Meanwhile, Minnesota's adverse event reporting law has been received more positively. However, in both cases, neither the criticisms nor the benefits can be directly attributed to the confidentiality provisions, or even the adverse event reporting law. Florida is not included because of an error in the previous memorandum. So although the trend may indeed lean towards less expansive confidentiality provisions, whether because it is too difficult to measure the impact, or because it is simply too soon to tell, I do not believe one can come to strong conclusion either way about the impact of disclosing the identity of the medical facility in adverse event reporting regimes.

I. California

Relevant Statutory Language [emphasis added]:

§ 1279.3. Information regarding reports of substantiated adverse events and outcome of inspections and investigations

(a) **By January 1, 2015**, the department shall provide **information regarding reports of substantiated adverse events** pursuant to Section 1279.1 and the outcomes of inspections and investigations conducted pursuant to Section 1279.1, on the **department's Internet Web site** and in written form in **a manner that is readily accessible to consumers** in all parts of California, and that **protects patient confidentiality**.

(b) By January 1, 2009, and until January 1, 2015, the department shall make information regarding reports of substantiated adverse events pursuant to Section 1279.1, and outcomes of inspections and investigations conducted pursuant to Section 1279.1, readily accessible to consumers throughout California. The department shall also compile and make available, to entities deemed appropriate by the department, data regarding these reports of substantiated adverse events pursuant to Section 1279.1 and outcomes of inspections and investigations conducted pursuant to Section 1279.1, in order that these entities may post this data on their Internet Web sites. Entities deemed appropriate by the department shall enter into a memorandum of understanding with the department that **requires the inclusion of all data and all hospital information** provided by the

department. These entities may include universities, consumer organizations, or health care quality organizations.

(c) The information required pursuant to this section shall include, but not be limited to, information regarding each substantiated adverse event, as defined in Section 1279.1, reported to the department, and may include compliance information history. **The names of the health care professionals and health care workers shall not be included** in the information released by the department to the public.

Current Status

Currently, the California Department of Public Health's Consumer Information System makes readily accessible adverse event information that is searchable by facility.¹ Based on my personal use of the website, this data is easily available.

Legislative History

On September 29, the Governor of California signed into law S.B. 1301, California's adverse event reporting law. Like nearly all of the adverse or sentinel even laws across the county, this law was in response to a 1999 report by the Institute of Medicine that heighted to need to address these events.² The debate was relatively limited, and S.B. 1303 passed by a wide margin.

Of the 13 agencies that recorded support or opposition to S.B. 1301, 12 groups supported the bill and worked with the drafters to find an agreeable compromise. These groups include: Congress of California Seniors, AdvaMed, American Federation of State, County and Municipal Employees, California Chiropractic Association, California Hospital Association, Consumer Attorneys of California, Gray Panthers, Kaiser Permanente, Medical Board of California, Protection and Advocacy, and the Service Employees International Union. Their reasons for supporting the bill may be generally summarized as providing desired oversight over the quality of care given by hospitals and their staff.³

Conversely, the sole opponent on record is the California Medical Association (CMA). The CMA stated, in part, that they opposed the bill because they believed the reporting should be anonymous because without these basic elements the medical reporting would be "ineffective and unlikely to actually improve patient safety . . . [and] could also lead to increased litigation and the fear of being sued might actually suppress discussion about medial errors among providers."⁴

Analysis of the Impact

Overall, it is difficult measure the specific impact that publically disclosing the names of the hospitals, has had on the reporting of adverse events in California. One reason this is difficult is because there is no baseline to compare the data to because California did not have a mandatory adverse event reporting system prior to 2006 that was based on the same definitions and scope. Secondly, this data only became available in 2009, and some regulations are still being promulgated. Nonetheless, there is some analysis and data to suggest that bill is not working as intended, providing some basis for the fears cited by the CMA. However, I have not found anyone or anything claiming this is a direct result of the confidentiality provisions.

¹ Available at <https://hfcis.cdph.ca.gov/>. Last Accessed October 27, 2013.

² Memorandum from Reed Smith Heath Care Group, Reed Smith, to Health Care Clients of ReedSmith (Oct. 31, 2006) at 2; Institute of Medicine, *To Err is Human: Building a Safer Health System* (1999).

³ CA B. An., S.B. 1301 Sen., 8/28/2006

⁴ Id.

The fears raised by the CMA were also cited in the 1999 Institute of Medicine report. In an effort to address these concerns of underreporting, § 1280.4 imposes a \$100 per day fee for an event that goes unreported. However, a third-party analysis, based on interviews with staff, found that this is rarely, if ever, is enforced. Further, a November 21, 2010 article in the Los Angeles Times questioned if a relatively low frequency of reported adverse events actually meant a lack of incidents.⁵ The article found that nearly 20% of the 416 hospitals covered under the law did not report any adverse events. The California public health officials and advocacy organizations expressed concern that hospitals may not be reporting adverse events that are in fact occurring. Senator Elaine Alquist, the author and sponsor of the bill, stated “What are the chances that nearly a quarter of California’s hospitals didn’t have a single medication, surgical or safety error since the reporting requirement became law?” However, the article did not argue that this was because of the fact that hospitals were publically disclosed. Further, the article did explain that the hospitals might be liable for significant fines following an investigation of events that were reported, arguably implying some causation. This suggests the causation between the confidentiality and the potentially poor reporting is possible, but not conclusive.

II. Florida

Relevant Statute (emphasis added):

Fla. Stat. § 395.0197

(8) The agency **shall publish** on the agency’s **website**, no less than quarterly, a summary **and trend analysis of adverse incident reports** received pursuant to this section, which **shall not include** information that would identify the patient, **the reporting facility**, or the health care practitioners involved. The agency shall publish on the agency’s website an annual summary and trend analysis of all adverse incident reports and malpractice claims information provided by facilities in their annual reports, which shall not include information that would identify the patient, the reporting facility, or the practitioners involved. The purpose of the publication of the summary and trend analysis is to promote the rapid dissemination of information relating to adverse incidents and malpractice claims to assist in avoidance of similar incidents and reduce morbidity and mortality.

Florida not included in analysis

Upon a closer examination of the statute, legislative history, and case law, I believe I incorrectly characterized Florida’s confidentiality provisions in the previous memorandum. The current law of Florida is that the name of the reporting facility is not to publically reported on the website.

III. Minnesota

⁵ Molly Hennessy-Fiske, ‘Error Free’ Hospitals Scrutinized: State Official Question Whether a Lack of Reports Required by a 2007 Law Means a Lack of Incidents, L.A. TIMES, Nove. 27, 2010. Available at <http://articles.latimes.com/2010/nov/27/local/la-me-hospital-errors-20101128>.

Relevant Statutory Language (emphasis added):

M.S.A. § 145.64

(c) . . . prepare a **report** of sentinel events reported pursuant to NRS 439.835 by a medical facility, **including, without limitation**, the type of event, the number of events, the rate of occurrence of events, and **the medical facility which reported the event**, and provide the report for inclusion on **the Internet website** maintained pursuant to NRS 439A.270;

Current Status

The adverse even data is readily available on the Minnesota Department of Health website and is, in my opinion, easier to navigate and find than the California webpage. The site lists data by year, and then by institution. It also has the following disclaimer that appears before one may access the data: "It's important to remember that these events are very rare. Use this information to help identify questions or concerns and talk to your health care provider. Ask doctors and nurses about the steps they are taking to ensure the safety of your care."⁶

Legislative History

Minnesota's Adverse Health Care Events Reporting Act of 2003 was introduced to the Minnesota Senate on March 23, 2003. Approved by the relevant committees, the bill passed the Senate 56-6 and unanimously in the house; it became effective on August 1, 2003.⁷

Analysis of the Impact

The Minnesota Bill is commonly cited as a model by states when those states are crafting their adverse event reporting laws. From its inception, the Minnesota law disclosed the name of the reporting facility.⁸ At least within Minnesota, the law's effect has been perceived in a mostly positive light.

For example, the Minnesota Department of Health conducted a report on the first five years and found the law has been "a catalyst for many changes."⁹ First, the report concluded that the adverse event law has been a driver for change in leadership and physician behavior. It claims more high-level officials and physicians are concerned about, and involved in, patient safety and quality of care than they were before the law was enacted.¹⁰ Second, the law's main goal of information sharing between institutions, the article concludes, has been one of the "key successes."¹¹ Third, based on surveys of reporting institutions, the report found there was better implementation of best practices.¹² Specifically, "the results showed a very dramatic movement on all measures since 2003, to the point where adoption of the full set of best practices has become the norm across the vast majority of facilities rather than the exception."¹³ Ultimately, 72% of the respondents of the Department's survey reported that the health system is "more" or "significantly

⁶ Available at <http://www.health.state.mn.us/patientsafety/adverseselect.cfm> (last accessed Oct. 27, 2013).

⁷ SF 1019, Revisor N. 03-2350 (Minn. 2003)

⁸ Reed Smith, *supra* note 2, at 2.

⁹ Minn. Dept. of Health, *Adverse Health Care Event Reporting System: What Have We Learned?* (2009).

¹⁰ *Id.* at 10.

¹¹ *Id.* at 13.

¹² *Id.* at 12.

¹³ *Id.*

more safe.”¹⁴ However, “respondents stated again that it can be difficult to know when an event has been prevented, and that we had no baseline prior to the law with which to compare current performance; they also noted that the adverse events law alone is not responsible for all safety improvements that have happened.” Many other organizations reported similar findings about the law, but based their findings on this single report.¹⁵

Critics of the law, such as the Minnesota based Citizen’s Council For Health Freedom, do not believe that these findings are a positive result. The criticism is not based on public disclosure specifically, but merely on the administrative burden and costs to hospitals created by mandated reporting in general. The Council’s president, Twila Brase, stated in a 2008 press release that “the diversion of dollars from patient care to paperwork is its own patient safety issue . . . [h]ospitals are overburdened with costly paperwork and reporting requirements that compete with actual patient care. Rather than requiring these reports, the Minnesota Department of Health should be striving to decrease the administrative burdens they place on hospitals.”¹⁶ The organization seems, however, to be in the minority in Minnesota.

¹⁴ *Id.* at 18

¹⁵ See e.g. http://www.ormanager.com/wp-content/uploads/2013/06/ORM_0613_29_ASC_Adverse.pdf

¹⁶ Press Release, Citizen’s Council for Health Freedom, Minnesota’s Adverse Events Reporting System: Unnecessary Diversion of Dollars from Patient Care (Jan. 2008) (available at <http://www.cchfreedom.org/cchf.php/10#.UnLLEZR4acI>).

1 and 2

Public Records Exceptions Subcommittee
Proposed letter to ENR and HHS Committees

Exceptions 1 and 2

Senator James A. Boyle, Senate Chair
Representative Joan W. Welsh, House Chair
Joint Standing Committee on Environment and Natural Resources
100 State House Station
Augusta, Maine 04333

Senator Margaret M. Craven, Senate Chair
Representative Richard R. Farnsworth, House Chair
Joint Standing Committee on Health and Human Services
100 State House Station
Augusta, Maine 04333

Dear Sen. Boyle, Sen. Craven, Rep. Welsh and Rep. Farnsworth:

The Public Records Exceptions Subcommittee of the Right to Know Advisory Committee is tasked with reviewing existing public records exceptions in the statutes, and in the past three years has focused on the exceptions found in Titles 22 through 39-A. The Subcommittee is expected to review and evaluate each public records exception and make a recommendation for keeping it as is, amending it or repealing it altogether. Title 1, section 432 contains the criteria for the review and evaluation.

As part of its review, the Subcommittee considered two exceptions in Title 22 within the "Community Right-to-Know Act" to address public concerns about hazardous substances. We understand that the program within the Department of Health and Human Services has never been implemented.

Because the Subcommittee does not feel comfortable recommending the repeal of the entire program, even though it has never been put in place, we worked on draft language to revise the confidentiality provisions to bring the language into conformity with the standard confidentiality wording and to make clear what information collected by the Department under the program would be considered public. Ultimately, however, we are reluctant to make recommendations concerning a program that has never been implemented.

We understand that the Department of Environmental Protection has programs that parallel or overlap the purposes of the Community-Right-to-Know Act, and that the Maine Emergency Management Agency and county emergency management authorities also collect information and develop emergency plans concerning hazardous substances. We hope that your committees will find the time to review the existing programs and determine whether action should be taken to put the Community Right-to-Know Act into effect and amended appropriately, or deleted completely.

Thank you for your time and attention to this matter. Please feel free to contact staff, Peggy Reinsch or Colleen McCarthy Reid, if you have questions. They can be reached at the Office of Policy and Legal Analysis at 287-1670.

G:\STUDIES 2013\Right to Know Advisory Committee\Existing Public Records Exceptions Review\ENR&HHSletter re CRTKA.docx (10/10/2013 4:03:00 PM)

3

McCarthyReid, Colleen

From: McCarthyReid, Colleen
Sent: Tuesday, October 15, 2013 9:28 AM
To: suzanne@mab.org; Pistner, Linda; Lynch, MaryAnn
Cc: Reinsch, Margaret
Subject: FW: RTK AC: Public Records Exceptions Subcommittee - sentinel events information

All, The Department of Health and Human Services has just provided the following written comments to questions posed by MaryAnn about the purpose and uses of the sentinel events reports. See the responses to the questions in red (copied from the email below here). Thanks, Colleen

Peggy & Colleen, What I would find helpful is the information from you, or DHHS officials:

1. What is the purpose of the sentinel event data collection? A system of reporting to improve the quality of healthcare and increase patient safety.
2. What does the state do w/ the information? We look at systems and processes in place that are related to the event. Track and trend identified factors in our database.
3. Is it used to hold facilities and personnel accountable., i.e., licensing decisions? Facilities are accountable to report identified events. There is a firewall between our program and Licensing functions.
4. Is it educational, ie., shared with other institutions for educational purposes, or to develop best practices? Yes without identifying specific facilities or providers.
5. What is the Dept.'s position on public records for sentinel report? The department finds value in the protections afforded by statute, and that efforts to remove such protections will have a severe adverse impact on the efficacy of this program.

From: Katchick, Joseph [mailto:Joseph.Katchick@maine.gov]
Sent: Tuesday, October 15, 2013 8:02 AM
To: Reinsch, Margaret; McCarthyReid, Colleen
Subject: FW: RTK AC: Public Records Exceptions Subcommittee - sentinel events information

Colleen and Peggy,
Per your request.
Thanks

Joseph Katchick, RN
Health Services Supervisor - Sentinel Events
Division of Licensing and Regulatory Services

Division of Licensing and Regulatory Services
Integrity – Openness – Quality – Safety – Trust - Validation

From: McCarthyReid, Colleen [mailto:Colleen.McCarthyReid@legislature.maine.gov]
Sent: Tuesday, September 24, 2013 1:58 PM
To: Katchick, Joseph
Subject: RTK AC: Public Records Exceptions Subcommittee - sentinel events information

Hi Joe, One of our Subcommittee members has just asked for more information on the sentinel events provision. Could you answer the questions raised in the email below? If you'd like, you can answer them in person at the subcommittee meeting. No need to prepare a written response. Sorry for the short notice!

Thanks, Colleen and Peggy

From: Mary Ann Lynch [mailto:mary.ann.lynch@courts.maine.gov]
Sent: Tuesday, September 24, 2013 12:01 PM
To: Reinsch, Margaret
Cc: suzanne@mab.org; Pistner, Linda; McCarthyReid, Colleen; Fouts, Henry; Kielty, Brenda; Linda Valentino (senatorvalentino@gmail.com); Monaghan-Derrig, RepKim
Subject: Re: RTK AC: Public Records Exceptions Subcommittee - websites

Peggy & Colleen, What I would find helpful is the information from you, or DHHS officials:

1. What is the purpose of the sentinel event data collection? A system of reporting to improve the quality of healthcare and increase patient safety.
2. What does the state do w/ the information? We look at systems and processes in place that are related to the event. Track and trend identified factors in our database.
3. Is it used to hold facilities and personnel accountable., i.e., licensing decisions? Facilities are accountable to report identified events. There is a firewall between our program and Licensing functions.
4. Is it educational, ie., shared with other institutions for educational purposes, or to develop best practices? Yes without identifying specific facilities or providers.
5. What is the Dept.'s position on public records for sentinel report? The department finds value in the protections afforded by statute, and that efforts to remove such protections will have a severe adverse impact on the efficacy of this program.

BTW, here is a useful compendium of state reporting laws:<http://www.nashp.org/pst-state-list>

Mary Ann Lynch, Esq.
Government and Media Counsel
Administrative Office of the Courts
Maine Judicial branch
P.O. Box 4820
Portland, ME 04112
mary.ann.lynch@courts.maine.gov
207-592-5940

"Nothing is to be preferred before Justice." -Socrates

6

Public Records Exceptions Subcommittee
Proposed letter to VLA Committee

Exception 6

Senator John L. Tuttle, Jr., Senate Chair
Representative Louis J. Luchini, House Chair
Joint Standing Committee on Veterans and Legal Affairs
100 State House Station
Augusta, Maine 04333

Dear Sen. Tuttle and Rep. Luchini:

The Public Records Exceptions Subcommittee of the Right to Know Advisory Committee is tasked with reviewing existing public records exceptions in the statutes, and in the past two years has focused on the exceptions found in Titles 26 through 39-A. The Subcommittee is expected to review and evaluate each public records exception and make a recommendation for keeping it as is, amending it or repealing it altogether. Title 1, section 432 contains the criteria for the review and evaluation.

As part of its review, the Subcommittee considered an exception in Title 28-A, section 755 related to the business and financial records of liquor licensees. During the 125th Legislature, we understand that the 125th Legislature transferred statutory responsibility for collecting data from on-premise liquor licenses from the Department of Public Safety to the Bureau of Alcoholic Beverages and Lottery Operations (BABLO). At the Subcommittee's request, BABLO completed a survey about section 755 and provided input about the application and potential impact of the confidentiality exception. We attach that information for your review.

While BABLO has not yet instituted a system or process to collect data for liquor licensees, they expressed interest in gathering data from on-premise licensees for marketing purposes to help the State better manage the sale and distribution of spirits throughout the State. However, BABLO also indicated that stakeholders representing licensees raised concerns that the confidentiality provision in section 755 may impact their ability to collect that data. BABLO suggested that the Subcommittee consider making statutory changes to clarify section 755 to enable the agency to collect certain information from licensees, but otherwise maintain the confidentiality of licensees' business and financial records while in the possession of the licensee.

Because the suggestion raised other policy and legal issues that go beyond the confidentiality exception, the Subcommittee is reluctant to move ahead without legislative input. We understand that your committee may be considering legislation in the Second Regular Session to further clarify BABLO's statutory responsibilities for liquor enforcement. As part of that review, we hope that your committee will consider the confidentiality exception and consult with BABLO and other interested parties to determine whether statutory changes should be recommended to Title 28-A, section 755.

Thank you for your time and attention to this matter. Please feel free to contact staff, Peggy Reinsch or Colleen McCarthy Reid, if you have questions. They can be reached at the Office of Policy and Legal Analysis at 287-1670.

19

Public Records Exceptions Subcommittee
Proposed Draft
#19

Sec. . 35-A MRSA § 8703, sub-§ 5 is amended to read:

§8703. REQUIREMENTS

Telecommunications relay services must conform to the following requirements.

1. **Geographic availability.** Services must be available on a statewide basis to the extent that they are technologically feasible.
2. **Temporal availability.** Services must be available 24 hours a day for every calendar day of the year.
3. **Accessibility.** Relay service operators may not refuse calls or limit the length of calls.
4. **Blockage level.** The allowable blockage level for the telecommunications relay services must be reasonable. Complaints relating to the reasonableness of the blockage level may be brought to the commission by the advisory council or by 10 or more aggrieved persons pursuant to section 1302, subsection 1.
5. **Confidentiality.** ~~Relay service communications must be~~ The providers of telecommunications relay services must keep relay service communications confidential.
6. **User fee prohibited.** A separate fee for telecommunications relay services may not be assessed to users of the services.
7. **Recovery of expenses and costs.** The costs for telecommunications relay services must be recovered through the state universal service fund pursuant to section 7104, subsection 7.
8. **Advisory council.** The providers of telecommunications relay services must take into consideration any comments from the advisory council.
9. **Restrictions.** Upon request, the providers of telecommunications relay services shall make known to users of the services any restrictions on the types of calls handled such as collect calls and automated information services.
10. **Notification of rates or charges.** Upon request, the providers of telecommunications relay services shall make known to users any rates or charges for the services.

Summary

This amendment clarifies that it is the responsibility of the providers of telecommunications relay services to keep relay services communications confidential.

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McCarthyReid, Colleen

From: Miller, Lynette C. <Lynette.C.Miller@maine.gov>
Sent: Monday, October 28, 2013 2:58 PM
To: McCarthyReid, Colleen
Cc: McAleer, Robert
Subject: RE: Right to Know Advisory Committee's Review of Statutes Governing the Homeland Security Council
Attachments: MEMA Annual Report to the Legislature CY 2012.pdf

Hello, Colleen and Peggy,

Attached please find MEMA Director Rob McAleer's 2012 Report to the Criminal Justice and Public Safety Committee which he delivered early this year, as required under Title 37-B section 708, subsection 2, paragraph H.

The report has widened in scope over the last few years, adapting to Committee interest in MEMA's overall activities. Accordingly, the attached report includes an overall assessment of emergency management achievements and challenges in addition to homeland security issues.

We have never regarded these annual reports as protected from public disclosure by the confidentiality provision in subsection 3. We have never had a FOAA request for them, but would provide them if a request was made.

I hope this information is helpful; let me know if you need more or different.

Lynette

*Lynette C. Miller
Director, Communications and Special Projects
Maine Emergency Management Agency
72 State House Station
Augusta, Maine 04333-0072
207-624-4420 / 800-452-8735*

From: McCarthyReid, Colleen [<mailto:Colleen.McCarthyReid@legislature.maine.gov>]
Sent: Tuesday, October 15, 2013 2:26 PM
To: Miller, Lynette C.
Cc: Reinsch, Margaret
Subject: Right to Know Advisory Committee's Review of Statutes Governing the Homeland Security Council

Hello Ms. Miller,

The Right to Know Advisory Committee's Public Exception Subcommittee is reviewing the confidentiality exception contained in Title 37-B, section 708, subsection 3. You may recall this provision was up for review last Fall; the Subcommittee tabled it for consideration this year. Last year, you completed a survey for the Subcommittee to use in its review of the exception. We've attached it for your reference as well as the statute codifying the Homeland Security Council.

In discussion the exception, the Subcommittee members had some questions about the reporting requirement in subsection 2, paragraph H and we were wondering if you may be able to answer. They are interested in finding out 2 things primarily:

1. Are annual reports provided to the Legislature's Criminal Justice and Public Safety Committee as required by section 708, subsection 2, paragraph H and could you provide them a copy of the most recent annual report?
2. Are these annual reports public records pursuant to Maine's Freedom of Access Act and made available to the public if requested, or, are the reports protected from public disclosure by the confidentiality provision in subsection 3?

The RTKAC has tabled its consideration of the provision until its next Subcommittee meeting on November 4, 2013. Any information you can provide in response to their questions would be very much appreciated.

Please let us know if you have any questions or need additional information.

Thanks, Colleen and Peggy

Colleen McCarthy Reid, Esq.
Margaret J. Reinsch, Esq.
Right to Know Advisory Committee Staff
Office of Policy and Legal Analysis
13 State House Station
Augusta, Maine 04333-0013
(207) 287-1670

**Maine Emergency Management Agency
2012 Annual Report
to the
Joint Standing Committee
on
Public Safety and Criminal Justice**



**Maine Emergency Management Agency
45 Commerce Drive, Suite 2
Augusta, Maine 04330
(207) 624-4400
www.maine.gov/mema/
www.maine.gov/mema/prepare**

Annual Report to the Public Safety and Criminal Justice Committee

Executive Summary

Introduction --

The Maine Emergency Management Agency (MEMA) provides leadership, coordination and support in the four phases of emergency management: mitigation, preparedness, response and recovery to lessen the effects of disaster on the lives and property of the people of the State of Maine. The Agency is also responsible for the coordination of Homeland Security activities. In carrying out its responsibilities, the Agency interacts with a wide array of County, State, Federal and Private Sector partners.

In spite of having the smallest agency (29 FTEs) of any State that has combined both Emergency Management and Homeland Security functions and the third smallest non-Federal operating budget, MEMA continues to meet the requirements of Federal mandates while accomplishing the most critical elements of our general mission. Additionally, the Agency manages both the Dam Safety Program and the Technological Hazards Program which is not the case in many states across the nation. Although MEMA continues to provide the service the State expects, the pressures of working in the emergency management environment combined with austere funding and staffing levels has taken a toll. During the last six years we have had turnover in (18) positions with (4) more actively seeking opportunities for career development in other organizations. The extremely limited depth in all areas represents the single biggest challenge for the Agency.

The detailed report that follows this Executive Summary provides a snapshot of the various activities and issues MEMA has worked with during the past year. It begins with a discussion of several very significant issues and then is generally organized along the four phases of our mission with additional separate sections for Homeland Security, Finance and County activities. The remainder of this Summary highlights some of the significant achievements, events, challenges and objectives that MEMA has or soon will experience.

Significant Accomplishments/Events --

Based on Federal reports and information provided by the County Directors, we have met the FCC mandate to narrowband our radio communications for first responders at both the State and local level. The success of this multi-year effort supported by the investment of several million dollars of federal and local funds will avoid the loss of assigned radio frequencies critical to first responder interoperability and eliminate the potential for large fines being levied by the FCC. As of the deadline, Maine led the Nation with a 98.7% compliance rating. We will continue to monitor in the event there are coverage gaps caused by reduced broadcast range.

Maine's response for mutual aid assistance from New York and New Jersey in the aftermath of Hurricane Sandy was significant, timely and effective and provided a great learning experience for us. Our ability to send resources to others is a critical element of the Nation's overall response strategy. We will continue to work with our partners to identify resources that may be available to meet future requirements.

The Agency has leveraged limited funding to maintain a robust yet focused training, education and exercise program throughout the State. With relatively limited human resources available in most of the State, it is critical to ensure our first responders have the skill sets necessary to perform their assigned tasks and work together in a cohesive manner. We will continue to find ways to bring the highest number of people to the highest level of readiness that we can with an emphasis on maintaining current capacity.

The Agency has worked closely with State, local, volunteer organizations and private sector partners to develop detailed Mass Feeding and post-disaster recovery plans and procedures. In the event of a catastrophic event such as Hurricane Sandy, these efforts will prove to be equally as important as our initial response efforts. Through exercises and training, we will ensure that these plans remain operational and relevant to our potential requirements.

Significant Challenges --

Federal Homeland Security funding has decreased from \$5.1M in FY11 to \$2.8M in FY12. The allocation of this funding allowed for use by State agencies (20%) is not sufficient to continue funding MEMA staff at current levels. Absent an increase in General Fund support, the Agency is faced with a choice of losing approximately 25% of our staffing or being forced to use alternate Federal funding for MEMA staff that would have otherwise been available to support operations at the County and local level. We are working with the Governor's Office to ensure we can maintain our operational capability.

Personnel turn-over continues to impair effectiveness within the Agency because of the specialized skill sets required and the lack of staffing depth in any one single area. Gaining proficiency in the various aspects of MEMA operations is a time consuming process. Fiscal constraints have limited our ability to stabilize staffing through competitive compensation.

A well-prepared public is perhaps the best emergency management tool we can have. Generally speaking, the public does not have a focus on individual or family preparedness. With limited resources and in the face of competing interests, we need to find a way to work with our partners at all levels to bring about a cultural change and improve the preparedness mindset of Maine's citizens.

The Federal Government has declared two thirds of the State as salmon habitat. This has resulted in the majority of our mitigation projects being subjected to the very stringent requirement of the Endangered Species Act (ESA). Mitigation is one of the most cost effective tools we have to lessen the impacts of future disasters. The ESA has had a very negative impact on our mitigation program and may well impact future post-event repair efforts.

Overall Objectives for CY 13 --

MEMA will leverage its limited resources to maintain a focus on core capabilities and sustainment of current capabilities throughout the State while also expanding where possible our outreach to our citizens to advance their preparedness to deal with emergencies.

MEMA will investigate all possible means of reducing attrition and stabilizing our workforce to ensure a high level of readiness at all times and maintain a workforce that has the skills and experience necessary to serve the State's needs.

MEMA will work with FEMA and our Congressional Delegation in an attempt to de-conflict the ESA requirements and our mitigation efforts in a manner that meets the requirements of the law yet is reasonable for our communities to achieve.

Homeland Security Funding

The reductions in our allocation of Federal funds through the Homeland Security Grant Program (HSGP) have reached a critical point. In our last report, we discussed the possibility of a drop in funding levels from \$6.6M in FY 10 to \$3M in FY12. The final FY12 total of \$2.8M was worse than expected. The negative impacts of these reductions have become a reality and we are currently dealing with two major challenges.

The first challenge involves available funding for county and local agencies. The State is required to pass through 80% of this funding to county and local agencies with a minimum of 25% being allocated to Law Enforcement and Terrorism Prevention Programs (LETPP). Prior to making individual local allocations, there are a number of State-wide programs that provide direct support to county and local community activities, such as exercises, training, special team stipends and equipment recapitalization, etc. The total cost of these activities is approximately \$637K that comes out of the 80% share. We divide the remaining funding with 55% going to the counties and local communities and 45% going to our six metropolitan areas.

In the past, there has been an annual competitive grant process to determine the most effective way to disburse the 55% allocation to county and local funding. Because the amount of funding is so reduced, we determined that the competitive grant process is no longer viable. This year counties have received a formula based allocation based on a standard baseline amount for each county, population, number of local jurisdictions and number/type of special teams within the county. The results of that process are shown in attachment (a) to this report.

The second challenge deals with the impacts of reduced funding available for spending by State agencies. In response to previous budget actions, MEMA has shifted staff funding from General Fund allocations to a combination of General Fund and Federal funding or in some cases to 100% Federal funding. Currently, MEMA has (13) out of (30) FTE employees that are supported in whole or part by HSGP funds at a cost of approximately \$792K. That amount exceeds the \$476K that are available in FY12 HSGP to support MEMA staffing and any other State level activities.

Faced with this new fiscal reality, we are reviewing funding alternatives with the goal of retaining, at a minimum, current capabilities. MEMA is the second smallest agency of all the States that combine Homeland Security with Emergency Management, and the Agency has several additional responsibilities that other State EMA's do not have. Reductions in staffing levels will prevent us from being able to perform our basic mission. State resources are continually scarce throughout public safety functions and this strain will require internal budget/staffing adjustments in an attempt to continue maintaining our basic mission. Our hope is that we will be able to balance direct investment in local capability with retention of state-level staff and programs that provide invaluable service to local jurisdictions.

FCC Narrowbanding Mandate

As previously reported, the FCC has mandated that virtually all radio equipment operating on specific VHF frequencies be “narrowbanded” by January 1, 2013. This means that the radios need to be using 12.5 Mhz of radio frequency spectrum as opposed to 25 Mhz of spectrum that was traditionally used. This mandate impacted almost all of the equipment used by our first responders and resulted in the need to re-program or in many cases acquire new radios. Using a combination of grant funds and locally generated funds over the past several years, MEMA has made compliance with this mandate one of our highest priorities. Based on the compliance reports produced by the FCC, Maine has the highest rate of compliance by any State in the Country. While the FCC reports indicate a few instances of continued wide-band use, we believe that those are by and large cases where the frequency owner is no longer operating the associated equipment. In short, we believe that Maine’s efforts to meet the mandate have been successful.

Disaster Response

Maine was fortunate once again this year in that we did not experience any Major Disaster Declarations. We did, however, see some unusual weather events and an earthquake that was felt by large portions of the State. Fortunately, the earthquake was relatively minor and caused very little, if any, damage. One of the weather events was a very concentrated and powerful rain storm that impacted fairly small areas in Piscataquis and Penobscot Counties. Although the local damage was significant, particularly in Brownville and Patten, it was not significant enough for the State to qualify for Federal assistance. Two businesses in Brownville qualified for HUD funds through the Community Development Block Grant Program (CDBG). But, there was no funding stream to assist with repair of public infrastructure other than State-owned roads. As a result, the impacted communities had to expend local resources to cover expenses. Recognizing that such incidents could easily occur elsewhere, MEMA has spoken with a representative of the Maine Municipal Association about the possibility of communities acquiring insurance policies to help absorb some of the impact.

Hurricane Sandy was a large and deadly storm that had a limited impact on Maine. With the exception of power outages that were quickly restored, there were no reports of significant damage. That left the State in a position to provide assistance to others less fortunate. A Maine Forestry Incident Management Team reinforced with a communications specialist and Sheriff’s Deputy from Washington County, spent (14) days coordinating logistics operations in the Queens and Brooklyn regions of New York City. Another group of MEMA, DOT, State Police, National Guard, the Freeport Fire Chief and a retired PUC employee augmented the Emergency Operation Center (EOC) in New York City for two weeks providing much needed experience and skills to include coordination of the EOC. A third group consisting of Maine State Police and Cumberland County Deputies provided security patrols for (6) days in a heavily impacted area of New Jersey. Each of these groups brought home numerous valuable lessons learned that we will use to better respond to future events in Maine.

On a related note, the Stafford Act generally limits the Federal Government's disaster relief funding to 75% of total Public Assistance (PA) costs. With regard to fiscal obligations related to previous disasters within the State, the Governor's Supplemental Budget contains \$240K to meet the State's share of PA costs. This will leave a small shortfall of just under \$10K. While a Disaster Relief Fund exists in State Statute, there is currently no regular funding mechanism for the fund.

Virtual Maine

MEMA and the Maine Office of GIS (MEGIS) formally launched the Virtual Maine (vME) system in 2012. The system was built using an ARRA grant from the US Department of Energy in partnership with the Governor's Office of Energy Independence and Security and the Maine PUC. vME ties together various data sources such as 511 transportation information, USGS stream gages, National Weather Service alerts and warnings, and utility data from Central Maine Power and Bangor Hydroelectric into a single, unified Common Operating Picture (COP) using a Google Earth platform. The vME system allows MEMA to share this data with other emergency managers at Federal, County and Local levels so that all partners are able to make informed decisions.

vME is an easy to use platform that layers various data sets onto a globe to better visualize conditions and impacts of an emergency event. For example, by combining power outage data with known locations of hospitals and potential road closures, first responders can determine alternate routes for transporting patients quickly in life safety situations. The Google Earth system is secure and easy to use. MEMA has already incorporated data from the MEGIS data catalog, Maine EMS, Department of Agriculture, Conservation and Forestry and others into the single globe. Over time, the Virtual Maine COP will continue to improve and serve more robust data as more agencies contribute their own information to the system to be shared by all users.

Cross-Border Activities

Border Interoperability Demonstration Program (BIDP)

Progress continues in Year 2 of 3 under this \$3.9 million grant to Washington, Aroostook, Somerset, Franklin and Oxford counties to improve interoperable communications within those counties and with neighboring Canadian provinces of New Brunswick and Quebec. MEMA has been coordinating work in the various counties and with the federal Office of Emergency Communications. Notable achievements in 2012 included a significant upgrade to Somerset County's communication system, linking the Jackman/Moose River area with the Regional Communications Center in Skowhegan. Aroostook County partnered with the State Office of Information Technology (OIT)'s MSCommNet Project to co-locate a repeater on the new Cyr Tower in Fort Kent. This arrangement not only saved significant BIDP grant dollars for other uses by not having to site and build a new tower, the deal also contributed \$200,000 toward the MSCommNet Project for Aroostook's long term lease at the tower site.

Additional tower construction and improvements are planned for 2013. Caches of mobile and portable radios were purchased for use by first responders in communities on both sides of the Maine – Canada border. A series of tabletop exercises planned for 2013 are designed to engage a larger segment of first responders in this initiative.

Regional Resiliency Assessment Program (RRAP)

This is a program primarily funded by DHS designed to investigate the complex dependencies and interdependencies within the energy sector on both sides of the Maine-New Brunswick border and related dependencies within the Canadian Agriculture and Transportation Sectors. It will also look at the risks and vulnerabilities associated with those linkages. This initiative is one element of the recently announced US-Canada “Beyond the Border” initiative.

This is a multi-faceted effort that includes site visits by specially trained National Guard soldiers assisted by personnel from Argonne National Laboratories, critical infrastructure security surveys, computer based visual assessment data collection, and in-depth facilitated discussions with interdependent sectors. Among the outcomes of this initiative will be overall security posture comparisons of like facilities, and dynamic protective measures and resilience index software tools to allow facilities to make informed decisions to strengthen their security posture.

This Program is still ongoing with multiple site visits and inspections of critical infrastructure assets completed in New Brunswick during 2012, and more scheduled for 2013. Maine participated in New Brunswick’s all-sector critical infrastructure meeting and table top exercise in November 2012.

Interoperable Communications

The ability of first responders to communicate during an emergency remains a critical element of our overall capabilities. Our State-wide Interoperability Coordinator (SWIC) has carried out several initiatives that will enhance communications. Those initiatives included:

- Expansion of access to common operating frequencies. Based on an existing formal agreement our first responders have the ability to establish on-scene communications using up to six state-wide common frequencies. Access to these frequencies was recently extended to the Maine CDC, Baxter State Park Rangers and the US Customs and Border Patrol.
- Developing and distributing specifications and technical requirements for encrypted radios for use by our four Type 1 Hazmat Regional Response Teams.
- Work with federal and local agencies to resolve interference issues on first responder radios in and around the Town of Lebanon.
- Providing Communications Unit Leader Training for (70) individuals with (8) people now fully certified.
- Conducting a Technical Assistance Table Top Communications Exercise with Kennebec County.

- Publication of a bi-monthly newsletter that is posted on line and distributed to over 300 specific individuals.
- Participation with the FCC Region #19 Advisory Board, FEMA Regional Emergency Communications Coordination Working Group, Plain Language Working Group and the Canadian Communications Interoperability Technology Interest Group.
- Conducted a Point of Distribution (POD) Exercise to distribute a large quantity of radios to 16 counties as part of the narrowbanding initiative. This proved to be an effective means of distributing the radios and was a good opportunity to practice the procedures that would be implemented to distribute other types of resources during an emergency.

Homeland Security Division Activities

Threat and Hazard Identification and Risk Assessment (THIRA)

MEMA completed the FEMA-mandated Threat and Hazard Identification and Risk Assessment (THIRA) process for 2012 using input from subject matter experts at Federal, State, County and Local agencies. THIRA is a process that leads every state to identify the most likely catastrophic scenarios that could impact the state, whether from natural, technological, or human-caused threats. Once the likely threat scenarios were identified, MEMA projected the impacts of these scenarios on each of the 37 “core capabilities” specified in the National Preparedness Framework. This resulted in list of projected “capability targets” on which MEMA then rated Maine’s overall readiness to perform in each of the 37 core capability areas. These capabilities (or gaps, where appropriate) were then reported in the State Preparedness Report (SPR) for 2012. The THIRA and SPR reports from all 50 states will be compiled by FEMA and reported in aggregate during annual program reviews by Congressional leadership.

Surveillance Detection Training

During November 2012, the Agency co-hosted a three-day Surveillance Detection Course in Portland. It was attended by approximately 30 members of the private sector, universities, and LE agencies. This course teaches commercial infrastructure operators and security staff of Critical Infrastructure and Key Resource (CIKR) facilities how protective measures can detect and deter potential threats to CIKR and fundamentals for detecting surveillance activity. Participants applied newly learned skills such as vulnerability analysis, surveillance detection, analysis of avenues of approach, and observation and reporting during practical exercises.

Active Shooter Training

Experience has shown that Maine has the potential to experience an active shooter incident similar to the recent tragedy at a movie theater in Aurora, Colorado, the December shooting incident at a mall in Portland, Oregon or the more recent tragic school shooting in Newtown, Connecticut. During September 2012, the Agency co-hosted a one-day Active Shooter Awareness Course in Portland. This course was designed to provide awareness to private sector owner/operators, law enforcement officials, and local government officials on how to be prepared for active shooter incidents. Nearly 100 people attended this training

event. There was a second Active Shooter session in Portland during December before a packed house. This session was followed by a one day train-the-trainer session to expand our in-State capabilities. The State Police, funded by Homeland Security Grants, conduct 7-12 sessions around the State on a yearly basis. And there have been numerous other sessions over the past several years. MEMA is also working closely with the Department of Education and the Maine Schools Emergency Resource Team to raise awareness and preparedness levels in our schools. Awareness is high, but it is an effort that must continue and be expanded.

Improvised Explosive Device (IED) Search Procedures:

During July 2012, the Agency co-hosted two one-day IED Search Procedure Courses in Portland and Bangor. These courses increase preparedness of security personnel and facility managers of critical infrastructure sites. They also focused on general safety measures used for specialized search and explosives sweeps.

Coordination with the USCG

The Agency worked with USCG in 2012 as a partner in USCG Sector Northern New England's Area Maritime Security Training and Exercise Program (AMSTEP) Functional Exercise which revolved around a notional terrorist attack on an oil tanker in Portland Harbor. This exercise involved all levels of government and the private sector to determine the actions required to respond to and recover from an incident of this type.

Maine Information and Analysis Center (MIAC)

MEMA continues to maintain an excellent working relationship with the MIAC, Maine's designated Fusion Center, which is under the operation direction of the Department of Public Safety. In conjunction with the opening of the new fusion center space and per DHS Baseline Capabilities for Fusion Centers, MEMA's Critical Infrastructure Protection (CIP) officer is now stationed in the Center on a full time basis. The CIP officer continues to work under the direction of the Homeland Security Division Director to further the CIP mission. This mission is now enhanced through increased training and information sharing capabilities within the Center.

Operations and Response Division Activities

Training

One of our areas of focus this year has been on Local Elected Officials training for emergencies. The base for this training has been the ICS 402 awareness program with the recommendation to participate in an ICS/EOC interface seminar for hands on experience. These seminars are currently being conducted statewide as part of MEMA's National Incident Management System (NIMS) compliancy initiative. As we have experienced, even small rural towns can be easily overwhelmed by isolated yet significant events, requiring a unified outside response for emergency support. Knowledgeable local officials are a critical component to a coordinated response that is able to effectively assimilate outside resources in

a timely manner. To date, a total of 434 officials around the State have completed this training and this number is continuing to rise.

Exercises

The Agency has continued to coordinate a robust exercise program throughout the State with (25) Table Top Exercises, (6) Functional Exercises and (7) Full Scale Exercises. We estimate that these exercises involved participation by 1500-2000 first responders and emergency management professionals. With the national focus on the emerging cyber threat, MEMA participated in a two day Cyber Security Exercise with the Office of Information Technology and the Maine Revenue Service. Additionally, Maine participated in the 2012 National Level Exercise that was based on a Cyber Security scenario. Maine was also the first State in FEMA Region 1 to exercise its recently completed Disaster Recovery Plan. This exercise involved not only state level partners, but also participants from several counties and local communities and other New England States.

Community Emergency Response Teams (CERT)

Maine's local CERT teams consist of trained, specialized and pre-identified individuals and are a very effective way to engage private citizens into our response capabilities. MEMA and Androscoggin EMA planned this year's annual jamboree. (120) participants from across the State trained on CERT as well as communications, pet sheltering and search and rescue. This three day event was hosted by Hancock County and included an opportunity for participants to receive National Certification from the Humane Society of the United States.

Radiological Hazards

This past year Maine participated in a federally required and graded exercise involving the Seabrook Nuclear Power Plant located in New Hampshire. Although not in Maine, the facility could potentially have impacts in Maine related to our natural resources such as agricultural and fisheries. This 2-day exercise allowed the state's Emergency Response Team (ERT) to coordinate local, county and state resources from the state EOC in response to a simulated event at the facility. All Maine agencies were given high marks and praise by the evaluators on their ability to recognize the issues and present solutions on how best to mitigate any impacts.

We also interact with two other facilities (Maine Yankee and Portsmouth Naval Shipyard) in Maine with regular meetings to ensure that adequate planning and communications are in place.

Finally, in the upcoming year we will be rewriting existing response plans to meet new Federal regulations for fixed nuclear facilities that have recently been issued.

Hazardous Materials:

Acting on behalf of the State Emergency Response Commission (SERC), the Agency coordinated forty-one hazardous materials response classes at no charge to local first responders with an attendance of 761. This training included thirty-five classes at the operations and technician level for a total of 581 attendees, 4 classes with a new chemical identification program called Hazmat IQ with 120 attendees and two tank truck rollover classes with 60 attendees (coordinated with DEP and supported with equipment by industry).

The Agency also offered four classes to industry to help them better interpret their requirements, with an attendance of 91. These classes included three Emergency Planning and Community Right to Know Act (EPCRA) workshops (1/2 day) with 75 attendees, and one Areal Locations of Hazardous Atmospheres (ALOHA) workshop (all day) with 16 attendees. This last class focuses on the use of a software tool to plot hazardous materials plumes.

Building on the momentum from previous years, the staff conducted outreach activities throughout the State and worked with 98 new reporting facilities. Eight of these new facilities also contained Extremely Hazardous Substances. This outreach enabled a total of 2,387 facilities to successfully file reports and meet Federal and State requirements. Last year, our total was 2,362.

The Agency has also been working with the County Local Emergency Planning Committees (LEPCs) to update required planning. Most of the sixteen LEPCs have provided plans over the past 2 years which the Agency has reviewed or will be reviewing and providing comments on ways the plans may be improved and simplified. Two of the plans have been accepted by the SERC.

We have issued a Field Operating Guide for use by the Regional Response Teams and Decontamination Strike Teams that outlines common operating practices so the teams can function as single entities or as combined teams and understand what their role is in a response.

During the past year, the FEMA Region 1 Chemical Facilities Anti-Terrorism Standards (CFATS) team met with MEMA staff to discuss our situation with regard to facilities working with what are referred to as chemicals of interest (COI). Since the original meeting there have been regular communications with our Hazmat Officer and Division of Homeland Security to keep them updated on Maine facilities that were identified as working with COI at or above the quantity threshold amounts to fall under CFATS regulations.

Regional Response Teams (RRTs) and Decontamination Strike Teams (DSTs):

During this past year all of our Regional Response Teams were inspected to ensure that the required training, physicals and equipment were in order. The RRT's were well prepared for this type of inspection and we found their records were well documented. We did lose one RRT this past year that chose to withdraw from the program because of the time required to maintain proficiency, competing requirements, and because of the lack of callouts

over the past five years. Based on our analysis of the threat, other resources capable of responding and diminished funding, we have made the decision not to replace this team.

Costs associated with maintaining these teams continue to be a concern. While our equipment recapitalization plan is continuing on course, future cuts to funding and changes to threat assessment may drive a need for additional reorganization.

Dam Safety

Hazard Classification Modeling: The rapid assessments of all (27) “high” (HH) and (76) “significant” (SH) potential hazard dams, begun in September last year, was completed in March 2012. The short timeframe of these rapid inspections precluded a detailed downstream hazard assessment from being completed concurrently. Some hazard classifications were challenged by dam owners. Other hazard classifications appeared to be out of date. At the completion of the condition assessment, we determined a need to produce detailed, consistent and accurate “dam breach flood maps” for all State regulated SH and HH dams. The process began with the modeling of Emery Mills Dam, because its “hazard” classification was disputed by the Town of Sanford. Our software modeling system created a dam breach flood map which we used to prove the hazard of the dam. We intend to use this type of map as a prototype for further MEMA modeling.

Rapid Dam Assessment Reports: At the completion of the rapid assessment process, no dams were found to be in an imminent danger of breach. Three HH dams were found to be in poor condition: Mt. Zircon, Christina and Emery Mills. All three currently operate with reduced reservoirs. Water levels maintained below the spillway crest of these dams are; Mt. Zircon 15’, Emery Mills 4’ and Christina 4’. No action has yet been taken by the owners to repair these dams. (27) of the total (76) SH dams were found to be in “poor” condition after the assessment was complete. Two SH dams, Colcord Pond and Southport Water Supply were repaired this year. Ulmer Brook Dam, also a SH dam, breached some years back, but beavers continue to block up the breach. The dam owner has undertaken to keep the pond at spillway depth and continues to remove beaver construction when it exceeds this height. Of the remaining dams, all are aging, all need breach mapping and all need repairs of some sort. Focus will continue on these dams during 2013.

Observation of defective dams: (14) defective dams were regularly visited in 2012 to observe if any defects were worsening or developing. These dams are; Ulmer Brook, Lake St. George, Pigeon Brook, Sandy Pond, Meadow Cove, Mt. Zircon, Colcord Pond, Emery Mills, Southport Water Supply, Hunnewell Lake, Bryant Pond, Christina, Panther Pond, Stoddard’s Pond. This year four Defective Dams have been repaired; Colcord Pond, Southport Water Supply, Hunnewell Lake, Panther Pond. Stoddard’s Pond was dewatered two years ago and is now a LH dam.

Facilitating and managing dam Emergency Action Plans (EAP’s): Currently there are (27) HH and (76) SH dams. 100% of HH dams have EAP’s. 93% of SH dams have EAP’s. The total percentage of outstanding EAP’s is 4%. Every effort is being made to get the four outstanding EAP’s. The nine stage EAP development guide is used to help dam owners understand and develop EAP’s. During the past year, (17) EAP Table Top Exercises

were conducted by MEMA during 2012 to test EAP's. Next year the target will be to conduct TTX's for (30) dams.

Natural event response: Two unusual natural events occurred in ME in 2012; the earthquake in the vicinity of Waterboro and Hurricane Sandy which affected southern and western ME. After the earthquake, State-regulated HH and SH dams, within 30 miles of Waterboro, were inspected for damage cause by earth movement or overtopping by floodwaters. Two dam owners inspected their dams immediately after the earthquake and reported in to MEMA, one requesting an inspection. No damage was seen as a result of the earthquake. After Hurricane Sandy we inspected all of the HH and SH dams with which we have significant concerns. The only action required was the dewatering of the Mt. Zircon reservoir.

Preparedness, Recovery and Mitigation Division Activities

Earthquake Program

Maine is categorized as a "moderate risk" state for earthquakes. While we have numerous small earthquakes that are seldom felt, we also have larger ones such as the 4.0 tremor we experienced this past fall. To help the State be better prepared to deal with earthquakes, we have a number of initiatives ongoing or planned to include:

- Providing educational outreach to Maine citizens
 - Developed middle school curriculum that is aligned with the *Maine Learning Results in Science and National Standards in Science* to include range of activities.
 - Printed/reproduced curriculum for distribution to educators
 - Distributed curriculum along with Maine Earthquake Guide to educators
- Building and maintaining HAZUS-MH capacity in Maine.
 - Recruited college student interns majoring in a related field of study, to collect building data for all counties.
 - Collected, uploaded (into HAZUS-MH), and reviewed new building data.
 - Tested HAZUS program with new data and ran Earthquake risk assessments for counties where inventory has been updated.
- Develop and print Maine earthquake brochure
 - Tri-fold Brochure specific to Maine to be developed by FEMA HQ's contractor at no cost to the State. Verbal agreement is in place and timeline established.
 - Completion date no later than 1 September, 2013, but probably sooner.

Public Outreach

Student Tools for Emergency Preparedness (STEP): Presented this grass roots preparedness program to 1708 students in (68) school systems including (32) first time participants.

Earthquake Preparedness: An informational package focused on grades 6-8 and the teachers working with those students was provided to 783 Middle schools. Additionally, we gave live presentations to (17) schools with (236) students.

Outreach Presentations: Provided preparedness exhibitions for the Maine Primary Care Association, Maine Principals' Association, Aging Well Exposition and the Maine School Management Association.

Seniors Outreach: This is a program that addresses both preparedness for emergency evacuation and sheltering in place for seniors and Assisted Living Facilities. A total of 28 presentations were provided to 372 participants.

School Crisis Team and Emergency Preparedness for Schools: This outreach program is targeted at faculty, staff and support staff. Eight presentations were provided to 247 participants.

Mass Care

Regional Shelters: MEMA continues to advocate for a regional approach to our sheltering needs, and is currently implementing a plan to survey each of the (55) designated regional shelters in the State. On-the-ground surveys have been completed for approximately 50% of those shelters. This survey will assess each regional shelter's ADA compliance, back-up power capacity, and other functional needs and will be used as a planning document in the decision making process for optimal sheltering operations.

Mass Care Coverage in the State EOC: Our Red Cross Liaison has continued the training of two Red Cross volunteers to ensure 24/7 coverage in the State EOC when mass care operations are underway. This team of partners participated in two mass care exercises, the 3-tier Seabrook Power Plant exercise series and a New Brunswick Canada, Point Lepreau Nuclear Power Plant EMA exercise.

National Mass Care Strategic Planning: The Red Cross Liaison also participated in a 2-day workshop review of the new National Mass Care Strategy developed by the National Mass Care Council. The council's mission is to "provide a framework to enhance coordination, pool expertise and strengthen response capacity in the provision of mass care services throughout the nation".

Mitigation

Hazard Mitigation Plans: The State's Hazard Mitigation Plan is valid until October 2013. The Agency received Pre-Disaster Mitigation Grant funding in August 2012 to support the revision of our plan during 2012. Completion of this effort is important for several reasons, including retaining eligibility for critical Federal assistance such as post-disaster Public Assistance in the event of a Major Disaster Declaration, Fire Management Assistance Grants, Mitigation Grants, Repetitive Flood Claims and Mitigation Assistance. Because we believe the current federal requirement for an updated Mitigation Plan every 3 three years is onerous, we have engaged Representative Michaud's office and the National Emergency Management Association to pursue a statutory change to a 5-year cycle. As of this writing, all (16) County Hazard Mitigation Plans have been updated. (13) of the (16) have been re-approved by FEMA and the remaining three are completing their

adoption process. Updating county plans which is required every five years is a difficult process because of the limited resources available to the counties to do this complex work.

Mitigation Projects: The by-pass project in Chesterville was completed in September 2012. This project was necessary because of a river-road landslide on the George Thomas Road. The actual cost of the project will be determined upon receiving final bills from the town. Projects were also completed in Baldwin, Gray, Minot and Wells averaging about \$100K per project. We are also working towards approval for projects in Abbott, Mount Chase, and Palermo also averaging about \$100K per project. Although we have had some positive developments, it remains a challenge for communities to go through the complex process of developing the FEMA applications and meeting the 25% match requirement. Additionally, meeting the stringent requirements of the Endangered Species Act is proving to be very difficult.

Expanded Salmon habitat under the Endangered Species Act (ESA): FEMA Region I hosted, and US Fish and Wildlife Service conducted a 2-day Section 7 ESA Consultation Seminar in September in Augusta to educate participants on the details of the Act as it applies to hazard mitigation and public assistance projects. Participants included representatives from Federal and State agencies, contractors/consultants, all FEMA Grant Programs, and congressional offices. Habitat for endangered salmon has recently been expanded and now covers almost 2/3rds of the State, which will complicate and lengthen mitigation and recovery projects in those areas. Two hazard mitigation projects that are currently underway are subject to the ESA, both of which have been subjected to additional in-depth analysis, which has considerably lengthened project timelines and frustrated town officials.

Recovery

New Maine Interagency Recovery Plan: Using the recently published National Recovery Framework as a model, Maine was the first in New England, and possibly the first in the Country to develop a State-level interagency recovery plan focused on six recovery support functions: planning and capacity building, housing, infrastructure, economic, health & social services, and cultural & natural resources. Portions of the plan were tested during a table top exercise in the Spring, which involved representatives from several State agencies, FEMA Region I, several Maine-based Federal Partners, and local officials from the Lewiston/Auburn area, whose jurisdiction was targeted in the exercise scenario.

Maine Donations Coordination Team (DCT): MEMA, in partnership with the Maine Commission for Community Service, co-chairs Maine's Donations Coordination Team (DCT) whose mission it is to manage unsolicited in-kind donations, undesignated cash, and unaffiliated volunteers in times of major disasters or catastrophes. This year, the DCT's efforts focused on donations management in those States impacted by Hurricane Sandy. It researched and directed well intended Mainers who wanted to donate time and/or in-kind goods to the appropriate organizations to help ensure that Mainers contributed to the solution and not to the problem.

Maine Voluntary Organizations Active in Disaster (Maine VOAD): The Maine VOAD continues to add capacity to the emergency management community by dispatching volunteer teams and individuals throughout the State during declared and undeclared disasters at the prompting of County and State EMAs. They also deploy out-of-State to help their counterparts in impacted States. For example, in the aftermath of Hurricane Sandy, chain saw crews and mud-out crews from the Southern Baptist Convention (SBC) deployed to reported sites of damage to assist homeowners in clearing debris inside and outside of homes and apartment buildings. The Maine VOAD also took an active role in organizing coordination meetings with VOAD leaders from other New England States to organize and synchronize a New England-wide VOAD response in the impacted States.

Disaster Assistance Team (DAT): The DAT, a coalition of representatives from State agencies to assist with Disaster recovery, assembled for its first ever Table Top Exercise to test the State's new Interagency Recovery Plan. Representatives from DECD, DHHS, DOL, MSHA, MCCS (DOE), the Bureau of Insurance, along with several local and Federal partners were on hand to work through a disaster scenario that took place in Androscoggin County. Meanwhile, work is ongoing to reorganize the DAT to meet the planning requirements in the new State Interagency Recovery Plan and new partnerships among State agency partners not previously involved in emergency planning are being formed.

Public Alerting and Warning

Emergency Alerting

Alerting the public quickly is critical in those fast-breaking events when, for example, a fast-approaching tornado, a dam breach, or a hazardous-material tank truck rollover threatens a community and fast action is needed. Early alerting is typically followed up by more in-depth communication to the public, coordinated through the Joint Information Center.

The Emergency Alert System (EAS) sends out emergency and Amber alerts through radio and TV broadcasters and cable systems. Maine Public Broadcasting Network (MPBN) provides the operational "backbone" for this system. In the past year, MEMA has installed and is finalizing the implementation of new EAS technology. This was a federally mandated action and the culmination of a three-year planning process in Maine which included the broadcast and cable community, emergency management, public safety and the National Weather Service. (No federal funds dedicated to this mandatory transition were provided; broadcasters and MEMA funded the transition out of operating budgets.)

The explosion of communications technology over the last several years has greatly increased alerting pathways. FEMA has implemented an alerting portal known as the Integrated Public Alert and Warning System (IPAWS) through which standardized alert messages are routed to channels including EAS, e-mail, text messaging, message boards, sirens, etc. The new Maine EAS system interfaces with this portal, as will the Virtual Maine project.

MEMA has also implemented and continues to enhance subscription e-mail and text messaging capability through the GovDelivery system, a program of InforMe.

Interface with Maine Public Broadcasting Network

Included in last year's budget (PUBLIC Law 2012 Chapter 655 PART BBB) was a requirement that MEMA participate with the Department of Administrative and Financial Services (DAFS) and MPBN to examine, among other topics, MPBN's role in emergency broadcasting and other ways in which MPBN's assets and infrastructure might support the State. The results of a number of collaborative meetings held over the summer were captured in a report that DAFS submitted to the Appropriations Committee in September of 2012.

Work with MPBN and state partners continues to ensure that communications infrastructure enhancements and investments are coordinated among all partners to the greatest extent possible.

MPBN has received federal funding from FEMA to support the transmission of alert messages through MPBN transmitters to cell phone systems. They have also applied for grant funding to establish a robust "closed circuit" communications system, using a blend of Internet and broadcast technology and leveraging existing infrastructure to transmit longer-format emergency messages such as a Governor's address, or detailed emergency instructions, to radio and TV stations for re-broadcast. Assuming funding is received, MEMA will be working closely with MPBN in the coming year to implement this system.

Finance Office Activities

Public Assistance

With initiatives contained in the Governor's Supplemental Budget we expect the State-share shortfall to drop to about \$10K. No new disasters in the last (14) months has allowed time to guide the remaining applicants through the process of closing out each applicant file. Only 19 applicants with open projects remain dating as far back as the 2008 Aroostook May Day event.

Witt Group Holdings Contract

MEMA completed a successful competitive RFP (request for proposal) award to Witt Group Holdings, LLC for Disaster Management, Preparedness, Response and Recovery services. It is a 3-year contract (11/1/12-10/31/15) with two 1-year renewals. There is no cost to this contract until the State actually asks for assistance, most likely in response to a catastrophic event such as Hurricane Sandy.

Commodity Contracts

MEMA executed several commodity contracts with private sector vendors. The two radio and ten hazardous materials equipment contracts have reduced costs. Each contract was also set up to allow other state agencies and municipalities to buy at the contracted rate.

These contracts are for such items as: Decontamination Shelters, Hazardous Incident Response Equipment, Level A Suits, Level B Suits, Dosimeters, Radioisotope Identifiers, Gas Meters, Response Kits, Chemical Detectors, ICOM Radios & Motorola Radios.

County Emergency Management Activities

There is an often-used expression in emergency management that, “All emergencies are local, and the control of those emergencies is also local.” It is MEMA’s responsibility to ensure that our local communities are prepared for, respond to and recover from the whole range of events that might impact our State. The success we have in meeting that responsibility is in large part a reflection of the day to day efforts of the County and local EMA Directors. To provide members of the Committee with an appreciation of the scope of work being accomplished at the local level, we have included a partial list of those activities the County Directors feel are most significant.

Androscoggin County

- Worked with all local communities to ensure they had complete and updated Emergency Operations plans and are currently working to develop Functional Annexes.
- Developed and distributed a County-wide resource management program to catalogue all response equipment owned by the various first responder agencies.
- Installed RACES ham radio equipment at each of six regional shelter locations and the County EOC to ensure the presence of vital communications.
- Developed a Post-Disaster Damage Assessment Program for local officials.

Aroostook County

- Completed work on Narrowbanding, to include assisting all response communities with acquiring the needed equipment and receiving the necessary training to operate the new equipment.
- Continued second year of work on the Border Interoperability Demonstration Project (BIDP).
- Completed a full update of the County Emergency Operations Plan.
- Accomplished an exercise program that included working with eight of our communities in running and exercising their emergency operations centers.
- Completed work on a review of all 8 regional shelters, a more detailed look as well as looking to meet accessibility issues.

Cumberland County

- Organized multiple public safety personnel training opportunities with the Federal Railroad Administration and Amtrak to enhance readiness in anticipation of extended Amtrak service to Brunswick.
- Conducted several exercises, to include a county-wide Hurricane Table Top Exercise for Emergency Managers, public safety personnel and other public/private partners and a Full Scale Hazardous Materials (HazMat) Exercise for the county's four HazMat Teams at a local Extremely Hazardous Substance (EHS) facility.

Franklin County

- Provided public educational outreach programs at local schools, the Extension Agency, Civic groups and at local warming centers.
- Provided S.T.E.P (Student Tools for Emergency Planning) instruction and materials to over 300 grade 4 and 5 students in an effort to instill a culture of preparedness at an early age level and perhaps influence action by entire families.
- Continued to work with Canadian, State, County, and Local partners on the development and implementation of the Border Interoperability Demonstration Project.
- Completed Radio Narrowband project with agencies in Franklin County.

Hancock County

- Completed the successful transition to entirely new County EMA staffing brought about by three retirements by long-time members.
- Completed the revision of the County's Mitigation plan and received formal approval from FEMA and the individual communities.
- Completed the County's transition to narrowband radio equipment.

Kennebec County

- Hired a dedicated planner to contact 55 of 62 schools and assisted in developing and exercising emergency plans for 24 schools.
- Greatly enhanced communications capabilities with a mobile tower and cross band repeaters. Now have the ability to provide emergency communications to the scene of emergencies throughout the county and the state of Maine if necessary. These communications assets were used over a dozen times in 2012.
- Worked with communities in Kennebec County interested in setting up an emergency operations center (EOC) in their towns during significant events. Trained staff and conducted table top exercises to enhance their capabilities and experience in effectively gathering information and communicating this information to the county EOC. This in turn has greatly enhanced the County's capability to keep MEMA informed as to the status of Kennebec County and is essential for resource coordination.

Knox County

- Completed the third year of a Knox EMA managed statewide pooled radio equipment purchase to leverage local municipal investment, competitive grant awards and pooled discount pricing to achieve a cost avoidance of approximately \$260K for the 13 participating Maine Counties in 2012 and a total of \$160K for Knox County during the last three years.
- Assisted with the coordination of renovations for the Public Safety facility with occupancy by EMA, Emergency Operations Center and other public safety agencies planned for early 2013, thereby increasing operational effectiveness and efficiency.
- EMA staff facilitated creation of a Public Works working group and adoption of a countywide resource sharing and acquisition memorandum of understanding to provide a mechanism for multi-town equipment and road maintenance/construction

materials purchasing and sharing, discipline-specific “training days” and a professional forum for local Public Works leaders and Road Commissioners.

- Worked with island community partners to bring planning, emergency response training and exercises to them in their home environments custom-designed to meet the unique challenges presented by their offshore locations.

Lincoln County

- Conducted a Table Top Exercise on Monhegan Island involving a domestic dispute that eventually involved a fully engaged hotel fire. This was the first exercise actually held on the island since 11 September 2001; and included all stakeholders on Monhegan as well as major mainland players including USCG, Lifeflight of ME, ME Fire Marshal’s Office, Red Cross, Lincoln County Commissioners, LCSO, Hardy Boat Ferry, BBH Harbor Master, and local FDs and EMA reps.
- Conducted a Table Top Exercise for the Southport Island Dam. This was the first dam in Lincoln County to have an EAP exercised. Participants included MEMA, Lincoln County EMA, LCSO, Town of Southport, Southport FD.
- Revitalized and greatly improved LC HAZMAT and DECON Strike Teams. Significantly improved response capabilities with the addition of 2 new trailers (1 equipment and 1 mobile DECON unit) and DECON tent as well air packs and gas meters. The County now has 3 trailers and response capabilities strategically located around county.

Oxford County

- Coordinated a full scale hazardous materials response exercise at New Page Corporation in Rumford. For the first time, this exercise brought together the mill’s hazmat team along with Rumford Fire Department and the Androscoggin COBRA Team. The teams collaborated in mitigating a variety of simulated leaks and spills and set up a joint incident command and decontamination line.
- Configured the CERT Communications Trailer, as a dual-purposed Regional Communications Center Back-up Dispatch, which is in direct response to communication issues and tower failure during Tropical Storm Irene. Two Communication Team members, who are also members of our IMAT team, completed the COML training offered through MEMA in the fall of 2011. The trailer was also deployed in early April and used to track teams working a mountain fire in Gilead in conjunction with the Forest Service. The Communications Trailer is an asset that has had considerable use over the last five years and those opportunities continue to grow as more capability is added to the trailer and the team members go above and beyond in training and strive to better integrate with first responder agencies.

Penobscot County

- Hosted a Preparedness Exposition that brought together 30+ agencies for the public to gain a better understanding of preparedness and response assets in the County.
- Conducted the County’s first School Violence Tabletop Exercise. This exercise was attended by 75+ attendees including RSU 34, Brewer Public Schools, Red Cross, Healthcare industry, Public Safety and the school bus company.

Piscataquis County

- May 1, 2012 Piscataquis County Sheriff's Office Dispatch switched over all operations to narrow band. This included all first responders' radios (police, fire & EMS) in the county that were narrow banded by this date. The narrow banding was paid for by Piscataquis County EMA through a Homeland Security Grant.
- Piscataquis County and Penobscot County LEPC's sponsored an "LEPC Preparedness Expo" for the public in May.
- The Piscataquis County Hazard Mitigation Plan was updated and completed.

Sagadahoc County

- Implemented of a County-wide Mass Notification System down to the residents and businesses of Sagadahoc County. This system has the ability to alert thousands residents and businesses in the event of a disaster with minutes to their landlines, cell-phone and VOIP services. The implementation of this system aligns with the PPD-8 Directive with regard to mass notification.

Somerset County

- Initiated and completed update of the County Mitigation Plan and approval by FEMA.
- Worked with the other Counties and MEMA to install a new IP based radio system for all of the County Communications as part of the Border Interoperability Demonstration Project (BIDP).
- Hired a new staff member to focus efforts of Special Response Teams in the County and re-energized of the Somerset County Animal Response Team (CART).
- Increased efforts to incorporate the County Amateur Radio Emergency Services (ARES) Team into response activities and participated with them in several exercises.

Waldo

- The County of Waldo joined with the County of Knox to develop a year-long series of training, seminars, workshops, tabletop exercises, and full scale exercises for Mass Rescue Operations in Penobscot Bay. These activities brought together a diverse group of representatives from municipal, county, State and Federal agencies that included emergency medical, hospital, fire protection, law enforcement, harbor masters, non-government organizations, emergency management, search and rescue, emergency communications, elected officials, and maritime response and patrol. Participants were provided a great deal of information that is currently being used to update and develop mutual aid agreements, standard operating procedures and emergency plans.

Washington

- Continued work on the Hazard Mitigation Plan with the local towns/cities and submitted for FEMA approval. To date the County is just finishing the last few approvals before sending for final approval.
- Completed the narrowband requirements by including local response units with the county communications systems and doing so without major lapses in communication capabilities.

York County

- Purchase of narrowband radios completed August. Continue to work with our partners and vendors to ensure transition by the end of the year.
- The County Hazard Mitigation Plan was accepted by FEMA this year. It was hard work but eventually successful with the buy-in from all of the towns.
- Reviewed and signed MOU'S with PSNY and a new MOU for alternate EOC between the York and Cumberland Counties EOC's.

Conclusion:

The State was fortunate not to experience any major disasters during the past year. That freed the Agency to focus our attention of the myriad of other opportunities that were presented to us. Although a great deal was accomplished, there remains much more to be done. The Agency will continue working to improve the readiness of our communities and citizens to ensure all are prepared to respond to any event. While we cannot avoid many of the potential disasters we face, by being prepared at all levels (State, County, local, personal and private sector), our ability to respond will be improved significantly.

FY12 HSGP County/Local Distribution Formula

Total HSGP	\$573,873.48
Total LETPP	\$253,144.76
Total Available	\$827,018.24

County	Total	Special Team Stipends (from Statewide Shared Programs funding)					Total FY12 Allocation (60/25/15 model)	% of avail funding
		Amount for LETPP	IMAT Stipend	CERT Stipend	RRT Stipend	DST Stipend		
Androscoggin	\$51,313.75	\$15,907.26		\$1,500.00	(metro)		\$52,813.75	5.4%
Aroostook	\$59,127.25	\$18,329.45	\$1,500.00	\$750.00	\$15,000.00	\$10,000.00	\$86,377.25	8.8%
Cumberland	\$81,676.35	\$25,319.67	\$1,500.00	\$1,500.00	(metro x2)	\$10,000.00	\$94,676.35	9.7%
Franklin	\$41,107.83	\$12,743.43		\$1,500.00			\$42,607.83	4.4%
Hancock	\$48,831.32	\$15,137.71	\$1,500.00	\$1,500.00		\$5,000.00	\$56,831.32	5.8%
Kennebec	\$57,352.49	\$17,779.27	\$1,500.00	\$1,500.00	\$15,000.00	(metro)	\$75,352.49	7.7%
Knox	\$41,745.71	\$12,941.17	\$1,500.00	\$2,500.00			\$45,745.71	4.7%
Lincoln	\$41,176.70	\$12,764.78	\$1,500.00	\$1,000.00		\$5,000.00	\$48,676.70	5.0%
Oxford	\$49,110.20	\$15,224.16	\$1,500.00	\$1,500.00	\$15,000.00	\$5,000.00	\$72,110.20	7.4%
Penobscot	\$70,129.93	\$21,740.28		\$1,750.00	\$15,000.00		\$86,879.93	8.9%
Piscataquis	\$38,542.85	\$11,948.28					\$38,542.85	3.9%
Sagadahoc	\$39,032.94	\$12,100.21	\$1,500.00				\$40,532.94	4.1%
Somerset	\$47,479.84	\$14,718.75		\$3,000.00		\$5,000.00	\$55,479.84	5.7%
Waldo	\$43,619.07	\$13,521.91	\$1,500.00	\$2,500.00		\$5,000.00	\$52,619.07	5.4%
Washington	\$47,749.15	\$14,802.24				\$5,000.00	\$52,749.15	5.4%
York	\$69,022.85	\$21,397.08	\$1,500.00	\$1,500.00		\$5,000.00	\$77,022.85	7.9%
TOTAL	\$827,018.24		\$15,000.00	\$22,000.00	\$60,000.00	\$55,000.00	\$979,018.24	

CART = \$750 ARES = \$750 CERT = \$750 SAR= \$1000

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Public Records Exceptions Subcommittee
Proposed Draft
#26

Sec. . 38 MRSA § 414, sub-§ 6 is amended to read:

6. Confidentiality of records. Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part of any record, report or information, other than the names and addresses of applicants, license applications, licenses and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets as defined in Title 10, section 1542, subsection 4, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department.

Summary

This amendment adds a cross-reference to the definition of “trade secret”.

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McCarthyReid, Colleen

From: Marvinney, Robert G. <Robert.G.Marvinney@maine.gov>
Sent: Tuesday, October 22, 2013 10:32 AM
To: McCarthyReid, Colleen; Margerum, Mark T
Cc: Reinsch, Margaret; Wells, Mari
Subject: RE: Right to Know Advisory Committee's Review of Title 38, Section 470-D
Attachments: 2011_Water_Use_Data_OFR.docx

Dear Colleen and Peggy,

With regard to the Water Withdrawal Reporting Program, I offer the following responses to your questions.

- 1) Reports are submitted to the following departments and programs, and almost all reports are required as conditions of other permits.
 - a. Public water supplies: required to report to the DHHS and PUC as conditions of permits.
 - b. Bottled water facilities: Required to report to DHHS Drinking Water Program as conditions of permits.
 - c. Ski areas: Report to DACF Maine Geological Survey.
 - d. Pulp and paper industry: Report to DEP as conditions of waste water discharge permits.
 - e. Agricultural users: Only irrigators with permits in the Unorganized Territories administered by the Land Use Planning Commission are required to report to the LUPC as conditions of their permits. This reported use is used to estimate other agricultural use, based on past statistics.

- 2) The Maine Geological Survey retrieves water use data from the various agencies and aggregates data by type of use and source type (surface water, groundwater) in an annual report, the most recent version of which I attach. Agricultural use is estimated by county. We are currently in the process of redesigning our website. When this process is completed, annual water use reports will be posted there.

I hope this information adequately answers your questions and that attendance at the subcommittee meeting will be unnecessary. If you would still prefer that one of us participate in that meeting, you will need to make a formal request to that effect through the Governor's Office.

Bob

Robert G. Marvinney, Ph.D.
State Geologist, Maine Geological Survey
Director, Bureau of Resource Information and Land Use Planning
Maine Department of Agriculture, Conservation, and Forestry
93 State House Station
Augusta, ME 04333

Direct line: 207-287-2804
Main line: 207-287-2801
Fax: 207-287-2353
robert.g.marvinney@maine.gov
www.maine.gov/doc/nrimc/mgs/mgs.htm

From: McCarthyReid, Colleen [<mailto:Colleen.McCarthyReid@legislature.maine.gov>]
Sent: Wednesday, October 16, 2013 11:15 AM
To: Margerum, Mark T; Marvinney, Robert G.
Cc: Reinsch, Margaret
Subject: Right to Know Advisory Committee's Review of Title 38, Section 470-D

Good morning,

The Right to Know Advisory Committee's Public Exception Subcommittee is reviewing the confidentiality exception contained in Title 38, section 470-D. You may recall this provision was up for review last Fall; the Subcommittee tabled it for consideration this year. Last year, DEP completed a survey for the Subcommittee to use in its review of the exception. We've attached it for your reference.

In discussion the exception, the Subcommittee members had some questions about the water withdrawal reports and the aggregate information that may be available to the public about water withdrawals from the DEP and Maine Geological Survey. The Subcommittee is interested in knowing the following:

1. As written, the statute requires reports to be submitted to 3 commissioners and mentions a list of which users report to which departments. Can you provide information about which users report to which departments and describe how the process for reporting works?
2. While the statute protects the confidentiality of individual water withdrawal reports, the survey indicates DEP and MGS provide aggregate data publicly. What information is made available publicly? Can you provide copies or examples of aggregate data? Are annual reports prepared and release publicly (or posted to the web) or is aggregate data provided in response to specific requests?

The RTKAC has tabled its consideration of the provision until its next Subcommittee meeting on November 4, 2013 at 1pm in Room 438, State House. Are one or both of you available on November 4th to come to the next Subcommittee meeting and respond to these questions in person? If not, any information you can provide in response to their questions in writing would be very much appreciated.

Please let us know if you have any questions or need additional information.

Thanks, Colleen and Peggy

Colleen McCarthy Reid, Esq.
Margaret J. Reinsch, Esq.
Right to Know Advisory Committee Staff
Office of Policy and Legal Analysis
13 State House Station
Augusta, Maine 04333-0013
(207) 287-1670
Colleen.mccarthyreid@legislature.maine.gov

**DEPARTMENT OF AGRICULTURE, CONSERVATION &
FORESTRY**

Maine Geological Survey

Robert G. Marvinney, State Geologist

OPEN-FILE NO. 13-18

Title: Water Use in Maine - 2011

Author: Robert Johnston, Dan Burke and Hannah Glover (compilers)

Date: 2013

Contents: 9 p. report

Water Use in Maine – 2011

Robert Johnston, Dan Burke and Hannah Glover

Maine Geological Survey

93 State House Station

Augusta, ME 04333

INTRODUCTION

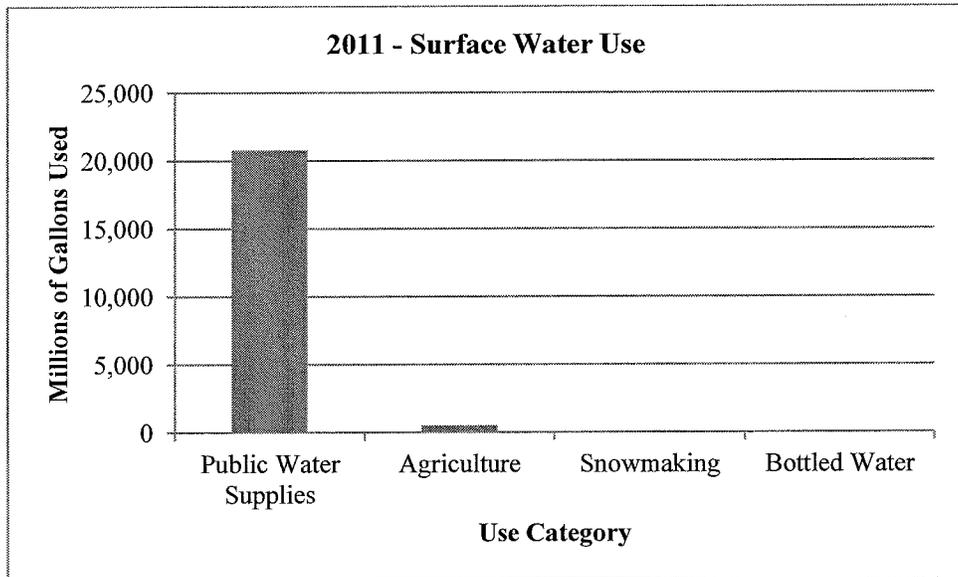
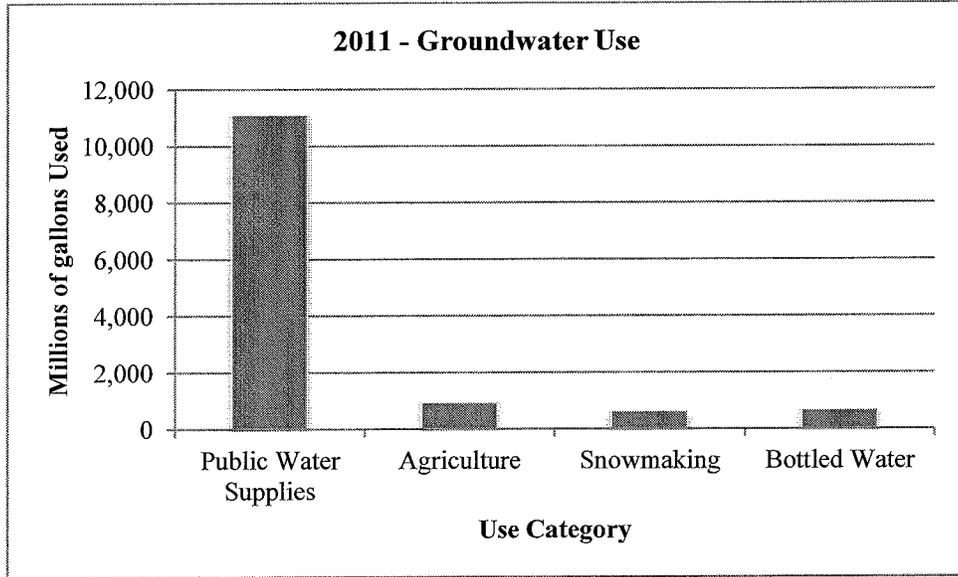
This report presents an overview of water use in Maine during the 2011 calendar year. The information was compiled from various sources identified in each section. Under Title 38 MRSA, §§ 470-A through 470-H, water users who withdraw quantities in excess of the

thresholds contained in the statute are required to provide information about their annual water use to appropriate state agencies. The Maine Geological Survey compiles this information on an annual basis.

WATER USE DATA

2011 Maine Water Use Totals by Source (millions of gallons):			
	Total	Groundwater	Surface Water
Public Water Supplies	31,905	11,124	20,781
Paper Mills	63,269		63,269
Agriculture	1,488	967	521
Snowmaking	765	653*	112*
Bottled Water	708	708	
Total	98,134	13,452	84,683

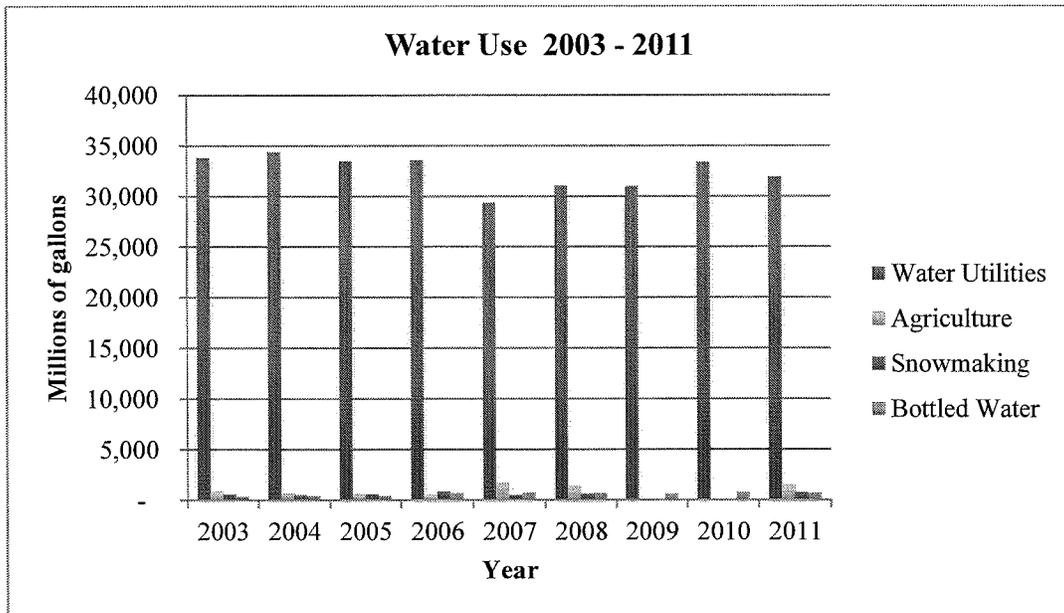
**estimated proportion of reported total that is ground water or surface water based on previous year's proportion.*



Reported Water Use by Type - 2003 - 2011										
Type of Use	Withdrawals Reported (millions of gallons)									
	2003	2004	2005	2006	2007	2008	2009	2010	2011	
Water Utilities	33,800	34,400	33,500	33,600	29,355	31,065	31,000	33,400	31,905	
Paper Mills	70,000	66,000	63,000	57,900	64,919	67,533	60,957	66,768	63,269	
Agriculture	861	719	622	514	1,691	1,380	*	*	1,488	
Snowmaking	590	559	606	863	537	661	198**	*	765	
Bottled Water	365	448	440	699	742	702	609	768	708	

* no data to report

** three ski areas reporting



PUBLIC WATER SUPPLIES

There are approximately 2,200 Public Water Systems (PWS) in Maine, and of these 400 are community public water systems with 25 or more users. Data for these systems, including location, source and population served, is maintained in a GIS database by the Department of Health & Human Services, Center for Disease Control and Prevention, Division of Environmental Health as part of their Drinking Water Program.

Production/consumption data for many of the larger water utilities comes from an existing reporting program to the Public Utilities Commission (PUC). Water utilities report to the PUC on an annual (Jan. - Dec.) basis, with data due by April of the following

year. The production/withdrawal data is broken down into monthly segments, and is also further divided by source -- either ground-water or surface water. For calendar year 2011, there were 110 large water utilities who reported to the PUC. Of those reporting, annual production for 2011 was 31.9 billion gallons, for an average of 2.7 billion gallons per month, or 87.3 million gallons per day. Of the total water use reported, 65.2 % (20.8 billion gals.) was obtained from surface water sources, and 34.8 % (11.1 billion gals.) was obtained from groundwater sources. There were 33 community systems that reported using surface water. These systems serve large population centers and therefore use the largest quantities of water. The remaining community systems, and nearly all the smaller systems, rely primarily on groundwater sources for their supply.

BOTTLED WATER

There were 22 operational bottled water facilities in Maine in 2011. Total water use for 2011 was 708 million gallons, or an average of 59 million gallons per month. This represents an approximate 14% increase from 2009. All (100 %) of the water produced by the bottled water plants and bulk loading facilities was derived from groundwater sources. Bottled water facilities are required to report volumes to the Maine Drinking Water Program.

COMMERCIAL AND INDUSTRIAL USE

Maine's pulp and paper manufacturers report their waste water discharges to the DEP and the volume of withdrawal can be calculated from the wastewater discharge volume. Analysis of wastewater discharge volumes from ten (10) paper mills indicates that they used approximately 63 billion gallons of water in 2011. This is down from approximately 66.7 billion gallons in 2010, which is attributed to mill shut-downs during the reporting period. Most of this water is discharged back to the rivers after use and treatment. All the pulp and paper mills lie on Maine's larger rivers, and get 100% of their water from these surface water sources. Pulp and paper mills are required to report discharge

volumes to the Maine Department of Environmental Protection.

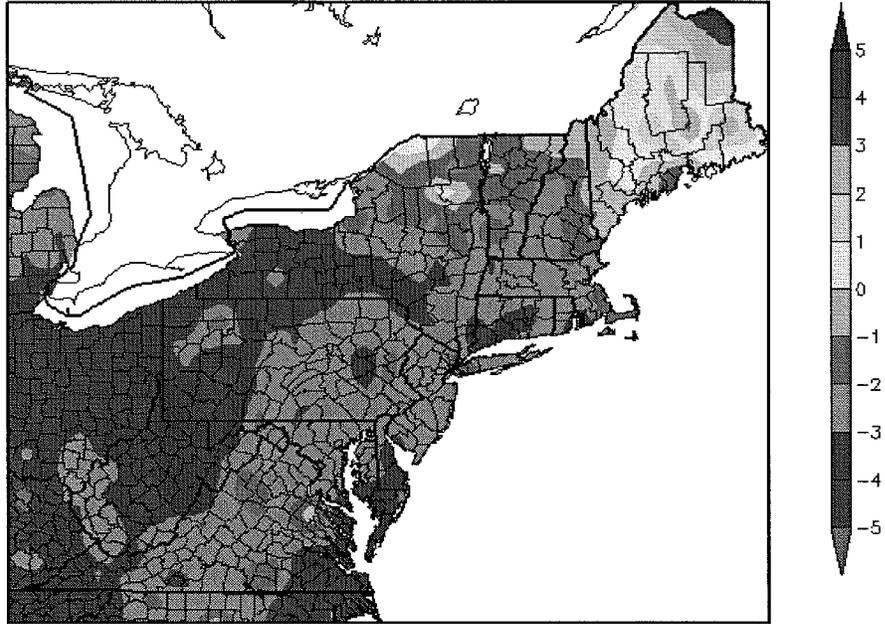
SKI AREAS

Six Maine ski areas reported snowmaking during 2011 (another ski area lost its 2011 records in a fire). Reports were obtained by contacting water managers at each area. The 6 ski areas that reported in 2011 derive their water supplies from multiple sources: ponds, wells, streams, and rivers. Data is collected on both an annual (Jan. - Dec.) and ski season (Nov. - Mar.) basis. Of the 6 ski areas reporting, a total volume of 765 million gallons of water was used for snowmaking for the calendar year 2011. The breakdown of sources for snowmaking water use is 652 million gallons (84%) from surface water and 122 million gallons (16%) from groundwater. Proportions of water from surface water vs. groundwater sources were taken from 2008 as the data collected for 2011 did not include source values.

Climatic conditions in 2011 led to an increase in snowmaking activity. According to the Northeast Regional Climate Center at Cornell University, temperatures in the winter of 2011 were normal to slightly above normal, while precipitation was either normal or less than normal.



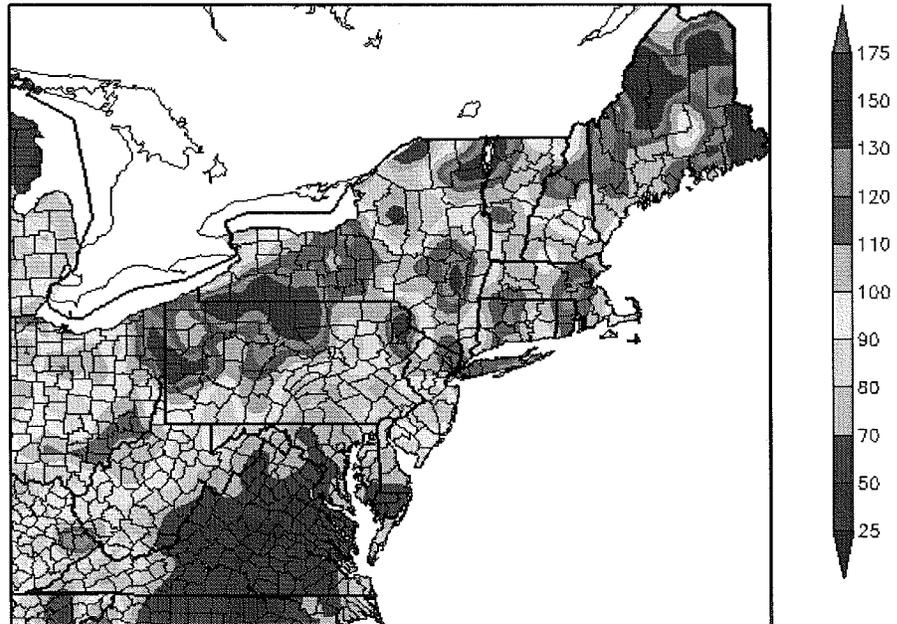
Departure from Normal Temperature (F) 12/1/2010 - 2/28/2011



Generated 6/15/2012 at HPRCC using provisional data.

Regional Climate Centers

Percent of Normal Precipitation (%) 12/1/2010 - 2/28/2011



Generated 6/15/2012 at HPRCC using provisional data.

Regional Climate Centers

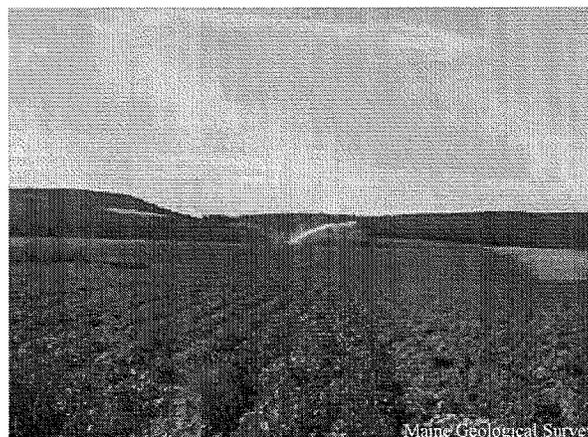
AGRICULTURAL WATER USE

2011 Agricultural Water Use Reported by county (millions of gallons)							
County	2003	2004	2005	2006	2007	2008	2011*
Washington	581.97	549.44	558.12	458.42	1,407.70	1,357.46	1,005.39
Kennebec	27.76	105.14			11.17		47.96
York	77.55	48.46		32.36	0.56		133.98
Aroostook	69.62	8.69	37.54	10.49	162.35	21.16	120.28
Oxford	7.55	4.80	16.79				13.05
Cumberland	49.49	2.14		5.60			85.50
Franklin	0.38	0.68	0.58		0.33		0.65
Penobscot	23.00				105.92		39.74
Androscoggin	14.50		8.85	7.61	3.55	1.75	25.06
Lincoln	8.12						14.02
Sagadahoc	0.46				0.36		0.80
Waldo	0.45						0.77
Somerset	0.25						0.43
Hancock	0.13						0.22
Total	2,864.22	2,723.35	2,626.89	2,520.48	3,698.92	3,388.37	1,487.85

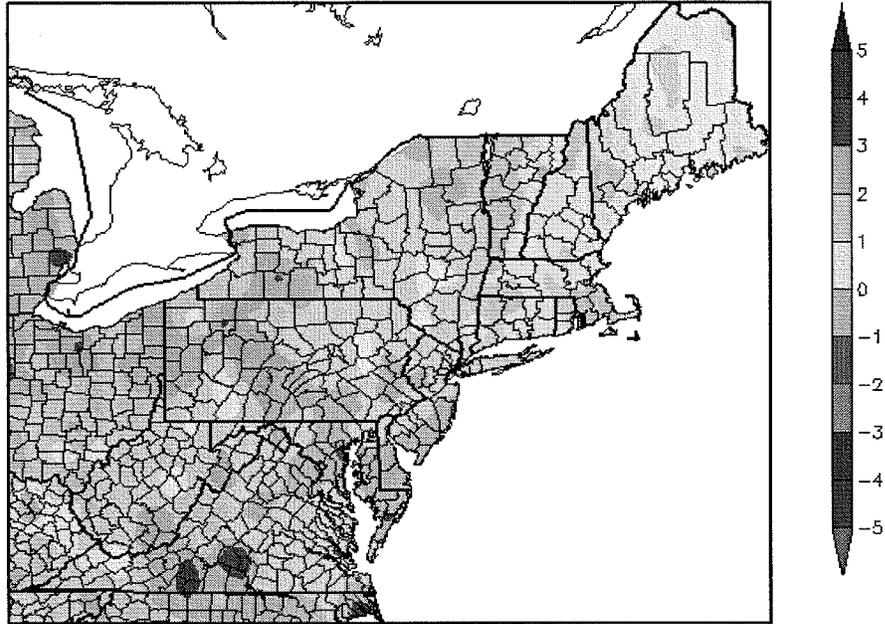
**2011 county values based on percent increase from 2003*

The majority of agriculture’s water use occurred in Washington County, primarily by the blueberry industry. The breakdown of sources for agriculture water use in 2011 is 521 million gallons (35%) from surface water and 967 million gallons (65%) from groundwater. Agricultural irrigators are no longer required to report water usage under Maine’s water use reporting law. However, some major irrigators are required to report water use as a condition of permits. These reported values were used as the basis for estimating agricultural water use in each county, using the 2003 data to establish the proportions.

Maine temperatures in the summer of 2011, as reported from the Northeast Regional Climate Center, were well above normal. Precipitation, other than in the hot, dry month of July, was also above normal in the summer of 2011. Hurricane Irene, in late August, pushed precipitation levels in Maine to near record levels. Higher than normal precipitation normally results in reduced need for agricultural irrigation, so long as at least an inch of water per week is obtained from rain. In 2011, irrigation would normally have been minimal in June, but would increase in the July and early August dry periods.



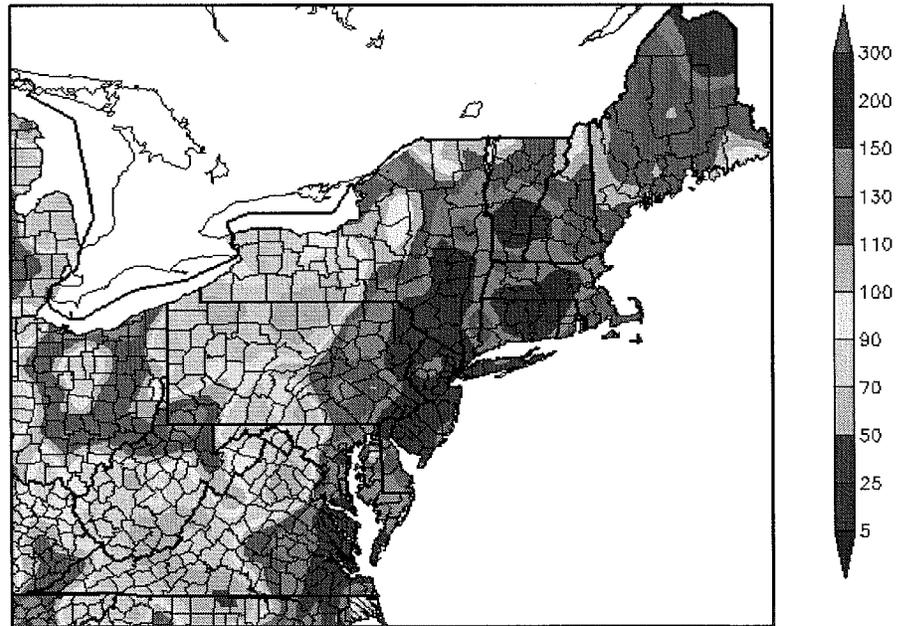
Departure from Normal Temperature (F) 6/1/2011 – 8/31/2011



Generated 6/15/2012 at HPRCC using provisional data.

Regional Climate Centers

Percent of Normal Precipitation (%) 6/1/2011 – 8/31/2011



Generated 6/15/2012 at HPRCC using provisional data.

Regional Climate Centers

MHA

Maine Hospital Association

Representing community hospitals and the patients they serve.

To: Right To Know Legislative Sub-Committee

From: Jeffrey Austin, MHA

Date: November 4, 2013

Re: Sentinel Event Confidentiality

Thank you for accepting further comment from MHA on our objection to changes to the Freedom of Access Laws and hospital Sentinel Event reporting.

At your last meeting you asked for some information.

I: Comparison of Publicly Reported Metrics on MHDO and Sentinel Events

There are 33 sentinel events in Maine. Maine has more categories of sentinel event than do other states. However, most categories of sentinel event have never been reported in Maine.

Sentinel Events Reported at Least Once (10)

1. An unanticipated death, or patient transfer to another health care facility, unrelated to the natural course of the patient's illness or underlying condition or proper treatment of that illness or underlying condition in a health care facility
2. A major permanent loss of function unrelated to the natural course of the patient's illness or underlying condition or proper treatment of that illness or underlying condition
3. Surgery or other invasive procedure performed on the wrong site
4. Unintended retention of a foreign object in a patient after surgery or other invasive procedure
5. Patient suicide, attempted suicide, or self-harm that results in serious injury, while an inpatient
6. Patient death or serious injury associated with unsafe administration of blood products
7. Patient death or serious injury associated with a fall while being cared for in a healthcare setting
8. Any Stage 3, Stage 4, and unstageable pressure ulcers acquired after admission
9. Sexual abuse/assault on a patient or staff member within or on the grounds of a healthcare setting
10. Death or serious injury of a patient or staff member resulting from a physical assault (i.e., battery) that occurs within or on the grounds of a healthcare setting

Numbers 1, 6, 8, 9 and 10 have some overlap with the MHDO public reporting system.

Sentinel Events Never Reported In Maine (23):

1. Patient death or serious disability due to spinal manipulative therapy
2. Artificial insemination with the wrong donor sperm or wrong egg
3. Patient death or serious injury from the irretrievable loss of an irreplaceable biological specimen
4. Patient death or serious injury resulting from failure to follow up or communicate laboratory, pathology, or radiology test results
5. Patient or staff death or serious injury associated with an electric shock in the course of patient care
6. Any incident in which systems designated for oxygen or other gas to be delivered to a patient contains no gas, the wrong gas, or is contaminated by toxic substances
7. Patient or staff death or serious injury associated with a burn incurred from any source in the course patient care
8. Patient death or serious injury of a patient associated with the use of physical restraints or bedrails
9. Death or serious injury of a patient/staff associated with the introduction of a metallic object near MRI
10. Any instance of care ordered by or provided by someone impersonating a physician, nurse, pharmacist, or other licensed healthcare provider
11. Abduction of a patient/resident of any age
12. Maternal death or serious injury associated with labor or delivery in a low-risk pregnancy while being cared for in a healthcare setting
13. Death or serious injury of a neonate associated with labor or delivery in a low-risk pregnancy
14. Patient death or serious injury associated with a medication error (e.g., errors involving the wrong drug, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation, or wrong route of administration)
15. Intraoperative or immediately postoperative/ postprocedure death in an ASA Class I patient
16. Patient death or serious injury associated with the use of contaminated drugs, devices, or biologics provided by the healthcare setting
17. Patient death or serious injury associated with the use or function of a device in patient care, in which the device is used or functions other than as intended
18. Patient death or serious injury associated with intravascular air embolism that occurs to an inpatient
19. Discharge or release of a patient/resident of any age, who is unable to make decisions, to other than an authorized person
20. Patient death or serious injury associated with patient elopement (disappearance)
21. An unanticipated perinatal death or major permanent loss of function in an infant, with a birth weight over 2,500 grams that is unrelated to the natural course of the infant's or mother's illness or underlying condition or unrelated to the proper treatment of the infant's or mother's illness or underlying condition in a healthcare facility.

22. Surgery or other invasive procedure performed on the wrong patient
23. Wrong surgical or other invasive procedure performed on a patient

Numbers 8, 15, and 22 have some overlap with the MHDO public reporting system.

II: Public Information Sources

Looking at this issue a different way, the public reporting systems cover much of sentinel event. (**Bold** is overlap with sentinel event reporting system.)

Maine Health Data Organization Patient Safety Website

1. **Dying in the hospital because a serious condition was not identified and treated**
2. Hip fracture after surgery
3. **Dying in the hospital during or after having a surgery to bypass a blocked blood vessel in the heart**
4. **Dying in the hospital during or after a procedure to open up blocked vessels in the heart (angioplasty)**
5. Bleeding or bruising after surgery
6. Abnormal changes in internal body functions after surgery
7. Breathing failure after surgery
8. Blood clot in the lung or leg vein after surgery
9. Severe bloodstream infection after surgery
10. **Dying in the hospital after heart failure**
11. Dying within 30-days after getting care in the hospital for heart failure
12. Returning to the hospital after getting care for heart failure
13. Surgical wound splits open after surgery on stomach or pelvis
14. **Dying in the hospital after bleeding from stomach or intestines**
15. **Dying in the hospital after fractured hip**
16. **Dying in the hospital while getting care for a condition that rarely results in death**
17. **Developing a pressure ulcer (bed sore) in the hospital**
18. **Surgical tool accidentally left in body during surgery**
19. Accidental puncture of the lung
20. **Dying in the hospital after heart attack**
21. Dying within 30-days after getting care in the hospital for a heart attack
22. Returning to the hospital after getting care for a heart attack
23. **Blood infection that patients with catheters developed while in the hospital**
24. Accidental cut or tear
25. **Blood transfusion reaction**
26. **Dying in the hospital while getting care for pneumonia**
27. Dying within 30-days after getting care in the hospital for pneumonia
28. Returning to the hospital after getting care for pneumonia
29. **Dying in the hospital after stroke**

30. Dying in the hospital during or after a procedure to open up a blocked blood vessel leading to the brain
31. Dying in the hospital during or after surgery on the esophagus
32. Dying in the hospital during or after pancreas surgery
33. Dying in the hospital during or after a surgical repair of an aortic aneurysm
34. Dying in the hospital during or after brain surgery
35. Dying in the hospital during or after hip replacement

Maine Health Data Organization/Maine Quality Forum Chapter 270

1. Patient falls and falls with injury
2. **Central line-associated blood stream infections**
3. MRSA bacteremia
4. Clostridium difficile infections
5. **Percent of patients with vest or limb restraint**
6. **Hospital-acquired pressure ulcer rate**

Maine Health Management Coalition Website

1. Leapfrog Patient Safety score, which includes 8 National Quality Forum Safe Practices
2. **Falls with injury**
3. Early elective delivery rate
4. Episiotomy rate
5. Medication safety score

Centers for Medicare & Medicaid Services Hospital Compare Website (no CAH data)

1. Serious complication rate
2. **Deaths among patients with serious treatable complications after surgery**
3. Rate of complications for hip and knee replacement patients
4. Catheter-associated urinary tract infections
5. Surgical site infections from colon surgery
6. Surgical site infections from abdominal hysterectomy
7. **Air embolism**
8. **Blood incompatibility**
9. **Catheter-associated blood stream infections**
10. **Falls and trauma**
11. **Foreign objects left in body after surgery**
12. **Pressure ulcers**
13. Uncontrolled blood sugar levels
14. **Death rate for heart failure patients**
15. **Death rate for heart attack patients**
16. **Death rate for pneumonia patients**
17. **Readmission within 30 days after discharge for heart failure patients**
18. **Readmission within 30 days after discharge for heart attack patients**

19. Readmission within 30 days after discharge for pneumonia patients
20. Readmission within 30 days after discharge (hospital-wide)
21. Readmission within 30 days after discharge for hip or knee surgery

III: Comparison of Maine to 7 States With Public Reporting

As I understand the AG/intern memo, seven states with public reporting include: California, Connecticut, Louisiana, Minnesota, Nevada, Washington and the Wash. D.C.

First, we remain a little unclear if these states actually do public reporting. For example, the D.C. report we found online does not list information by hospital name but instead looks like the Maine report. (For what it's worth, the D.C. report is outstanding in that it actually discusses quality improvement.)

Second, it's hard to meaningfully compare states on issues such as this. However, thankfully, a national organization called Leapfrog conducts studies of hospital quality, by state. The Leapfrog effort, which is one of many nationally, is helpful to us because it focuses on patient safety issues rather than the broader topic of hospital quality.

Last month, Leapfrog announced its most recent quality ratings by state. The results were as follows:

- Maine - #1.
- California - #8
- Washington - #17
- Minnesota - #25
- Louisiana - #32
- Nevada - #45
- Wash. D.C. - #49.

MHA is proud of its members and this significant accomplishment. The Sentinel Event program, including confidentiality, is part of the effort. This #1 ranking should give pause to making changes to the Sentinel Event program.

We continue to strongly oppose loss of confidentiality for sentinel events.