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## Workshop on Emergency Response

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The Steering Committee for the National Strategies Conference identified emergency response as a critical issue facing the transportation industry and the public. The workshop on emergency response based its deliberations on the resource papers provided by three authors chosen for their expertise on the subject. The authors were Robert L. Hansen, Robert Mesler, and J.J. Driscoll--all of whom were present during the sessions (see Appendix 2).

The workshop participants represented government at the federal, state, and local levels; chemical and manufacturing industries; rail, highway, pipeline, and water transportation industries; and consultants. Two groups, meeting in separate all-day work sessions, developed their own agenda with respect to the discussion and identification of issues, solutions to problems, and strategy for implementation.

Each group concluded that planning, training, who is in charge, and funding were first-line problems that should be dealt with. The priorities given these items were similar between the two groups [see the table below (not all columns add to exact numbers due to participants not voting for all issues)]:

Issue	Priority Ranking							
	1	2	3	4	5	6	7	8
Planning	13	4	1	1	0	0	0	0
Training	1	7	8	2	1	2	0	0
Who's in charge	5	3	2	3	2	2	1	3
On-scene information	1	2	3	5	8	2	0	0
Funding	1	6	6	2	1	0	5	2
Evacuation	0	0	0	3	5	7	5	0
Liability	0	0	0	3	2	4	4	6
Emergency medical services	0	1	1	1	1	4	6	7

A general viewpoint expressed was that there are too many federal agencies involved in emergency-response activities and, therefore, no one has effective responsibility for this area. This issue received the most overriding attention. A recommendation was made by both groups that a single federal lead agency be appointed to coordinate emergency response activities.

Both groups reached consensus that planning was the number-one priority. The planning function must be coordinated by a single agency at the local, state, and federal levels of government. Producers, transporters, and responders should be an integral part of this planning effort.

Preparedness planning is essential if hazardous materials incidents in transportation are to be handled effectively.

Both groups believed that training was the second-highest priority. Hazardous materials incident response training needs to be conducted by using a program aimed at the various levels of responders' needs. (Since training was more fully covered in another workshop session, our discussion is limited on the subject.)

Who's in charge and who's the coordinator were also priority items for both groups and generated

the most discussion. It appeared to be an individual agenda item revolving around liability, as well as effective and legal responsibility. The consensus was that every jurisdiction shall designate an official who will be responsible for incident management.

Although other problem items were listed, they were not discussed in great enough detail to allow the group to reach consensus. They are identified in the group report attached.

### REPORT OF WORKSHOP GROUP 1

Group 1 developed a list of items that it considered to be important problems in emergency response. Those problems were subdivided into preaccident, immediate (during), and secondary (post). Major subject areas were identified from this list of items (see Table 1). These major subject areas are planning, training, who's in charge, on-scene information, funding, evacuation, liability, and emergency medical services. A poll of the group resulted in setting priorities for the major subject areas. The group agreed to deal with the items in order of priority. The group did not reach a consensus on all items.

#### Planning

The following solutions were reviewed, discussed at length, and adopted by consensus.

1. There shall be a single focus at the federal level to plan for hazardous materials incidents.
2. There shall be at the state and local level a single focus for hazardous material incident planning.
3. Planning shall include private industry as an active participant.
4. A study of existing legislation needs to be undertaken to identify the overlapping of jurisdictions among the federal, state, and local agencies (referred to legal committee).
5. There needs to be a review of existing study data and recommendations for possible directions.
6. There is a need to publish and promote existing guidance materials for hazardous material incident planning such as the Rockwell Study, Fire Scope, Multnamah County Contingency Plan for Hazardous Materials, Puget Sound COG study, the National Contingency Plan, study by Kansas State University, and STL Post-Accident Procedures Study.
7. The administration should establish a single federal lead agency for hazardous materials emergency-response planning. The federal lead agency should establish an interagency committee on hazardous materials involving (a) state and local agencies and (b) private industries to review existing study data and recommend possible directions, publish and promote existing guidance materials, and motivate locals to action.

#### Training

There needs to be established a government-industry group to develop recommended criteria for hazardous materials incident training at various levels. Significant questions that need to be answered by this group include the following:

1. What is currently available?
2. What do emergency-response people at different levels need to know?
3. What people need to be trained?
4. Who will conduct the training?
5. Who will pay for the training?
6. Who is responsible to get the job done?

Table 1. Problem categories.

<u>Preaccident</u>	<u>Immediate (During)</u>	<u>Secondary (Post)</u>
Planning	On-scene information	Funding
Funding	Emergency medical services	Who's in charge
Training	Evacuation	Cooperation
Evacuation	Who's in charge	Media
Who's in charge on scene	Hazardous materials identification	
Emergency medical services	Communication	
Identification	Funding	
Communications	Credibility	
Risk analysis	Damage potential	
Credibility	Source of technical information	
Ability	Cooperation	
Equipment	Media	
Mission	Chemical behavior	
Damage potential	Container integrity	
Source of technical information	Environmental exposure	
Good samaritan		
Risk analysis		
Cooperation		
Media		
Perception-public		
Chemical behavior		
Response procedures		
Container integrity		

While the group identified these as significant issues, they were not able to arrive at solutions. Solutions to training problems should be considered by the training committee.

promulgate the necessary legislation to enable FEMA to act effectively as the lead agency, including proper funding.

Who's in Charge?

REPORT OF WORKSHOP GROUP 2

The question, Who's in charge?, generated the most discussion. It is a question that has many answers. In the case of fire departments, they asserted that they have legal responsibility in those counties that identify the fire chiefs as having responsibility for control of hazardous materials incidents. The railroad industry viewpoint was that there is a multilevel designation of who's in charge. If the scene of the incident is on railroad property, the railroad has responsibility to initiate measures to mitigate the safety hazard and to effect clean-up. In other cases, it was asserted that the state police have responsibility for the incident. The group decided that the who's-in-charge terminology was too strong and believed that the proper terminology should be, Who's the coordinator? In further discussion, it became evident that the identification of that person is dependent on time, location, event, and political and legal determinations.

The process of deliberations evolved differently in Group 2. Group 2 began its discussion and deliberations to identify the problem in handling emergency-response incidents by setting priorities and categorizing the issues. This discussion of what constitutes an emergency reflects the need to identify immediate and first-responder responsibilities and control of long-term clean-up that will be required. This group stated that consideration of the environment is receiving new attention that must be considered beyond the traditional emergency-response activities.

The group eventually reached a consensus: Every jurisdiction shall designate an official who will be responsible for incident management.

Likewise, it was asserted that the capability for response is not widespread among government and industry. Some question the need for having a widespread response in view of the limited emergency-response incidents that occur during any one year. Discussion was centered around a need to place in perspective the training and equipping of personnel capable of carrying out emergency response. The group was divided along government and industry lines in terms of their planning and implementation activities. Government people at the federal, state, and local levels felt that more contingency planning must be done if they are to successfully handle incidents that may occur. They agree that they cannot identify when they will occur or even if they will occur, but they did agree that they must be prepared to meet the need when it arises. It was asserted that the "public" expects local people to respond when a problem occurs.

Dissenting Viewpoint

A dissenting viewpoint was submitted by workshop 1 participant Al Grella, U.S. Nuclear Regulatory Commission. That statement is as follows:

Determining the scope of what is meant by an emergency response did not meet with any universal agreement. Personnel of the U.S. Environmental Protection Agency believe that the emergency is not over until the material is cleaned up and removed. This view was not shared by transportation interests, who view the emergency-response problem as one of immediate mitigation of hazards.

I strongly dissent from the apparent consensus of the work group that the way to solve emergency-response problems is to form an interagency committee. Interagency committees seldom are effective in carrying out solutions to problems. A much better and more logical route would be to continue the lead-agency route, and FEMA was assigned as the lead agency a few years ago. If FEMA is not able to carry out its mandates as lead agency, then Congress should be asked to

In this session, the who's-in-charge (who's-the-coordinator) question was discussed at length. It

was asserted by the fire department representatives that they have the authority and responsibility at the scene of an incident and are looked to by the local government and public to provide a response and see that the situation is brought under control. There was a need expressed to clarify the role of federal, state, local, and private groups.

A single strategy statement was adopted. The group concluded that there should be a lead federal agency to be responsible for coordinating current emergency response efforts in the areas of planning, training, role clarification, liability, research, funding, and resources at federal, state, and local levels (private and public).

The group did not feel that the lead-agency concept has been implemented at the federal level. However, this is a priority item if the emergency response problems are to be solved.

This group also adopted a second general issue statement:

A sunset commission should be appointed to examine the transportation of hazardous materials and waste to determine the nature and extent of the problems of emergency response. This examination should be conducted in a coordinated effort of federal, state, and local government; producers; transportation; responders; and others.

This statement indicates their concern that a definition of the problem is required. This definition is needed in addition to the priority program outlined above.

## Workshop on Legal Responsibilities and Implications

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This workshop addressed the subject of Legal Responsibilities and Implications as they pertain to the transportation of hazardous materials and hazardous wastes. The workshop sessions were led by H. Arvid Johnson. The discussions revolved around and evolved from the issues presented in three issue papers by J. Kevin Healy, H. Arvid Johnson, and Stanley Hoffman (see Appendix 2). Workshop participants included representatives of federal, state, and local governments; regional governmental associations; shippers; manufacturers; carriers; emergency responders; consultants; lawyers; and the press.

The topic of the workshop is indeed broad. No attempt was made in the sessions to clearly define what exactly was being addressed therein relative to the subject of the workshop, other than the issues presented in the three resource papers. Consequently, the workshop examined legal responsibilities and implications in the transportation of hazardous materials and hazardous wastes in a different context than it was treated in Transportation Research Board Circular 219.

Unlike some of the other workshop topics (e.g., training, emergency response, risk assessment, and technical innovation needs and limits), the nature of the issues discussed in this workshop does not and did not lend itself to the concreteness of definition and discussion as may have been the case with the other workshops. The issues are more philosophical; and their problems, strategies, and goals do

not lend themselves to "laundry listing".

### INTERJURISDICTIONAL CONFLICTS AND INCONSISTENT REGULATIONS

The workshop began by discussing the issue of inter-jurisdictional conflict, the topic of Healy's paper. It was generally agreed that of the three issues presented in the papers, this one was of the greatest immediate importance. The discussion of this issue was itself indicative of the uncertainty and chaos that will continue if the issue of inter-jurisdictional conflicts is not resolved. The problem is undoubtedly important and was described as "growing" and "festering" and one for which there is an "urgency" for a solution to prevent a proliferation of inconsistent regulations as well as duplicative programs. The objective, one participant stated, is to "stem the tide of conflict".

The problem of interjurisdictional conflicts was viewed both as a conflict between federal and non-federal (state and local) laws and regulations, and also as one of "lateral" conflict between states, between local jurisdictions within a state, and perhaps even between the different regions of the country. Most of the discussion related, however, to the "vertical" conflict between federal and non-federal (state and local) laws and regulations. The issue of international versus national conflict was not addressed.

It was generally agreed that the problem of interjurisdictional conflicts was really a problem that was prevalent in the safety regulation of the transportation of hazardous materials. The inter-jurisdictional conflicts did not seem to be as much of an issue in the environmental regulation of waste disposal or even in the pipeline area by reason of the site-specific nature of the regulations, the various roles that the different levels of government have played, and the mechanisms employed to establish the regulations (e.g., federally approved state program of substantial equivalency to the federal regulations).

The discussion of the problem of interjurisdictional conflicts made clear that its genesis or cause could be traced to various problems, real or perceived, depending on the various points of view of the different actors. The cause of interjurisdictional conflicts was seen to be political, and in part stimulated or generated by the media coverage. It was seen also to be the result of the perceived vacuum resulting from the lack of a strong leadership role at the federal level and the lack of a strong federal response to the problems presented by the transportation of hazardous materials. It was viewed at the local level, in particular, as a response to the fact that the actors at the local level--whether it be the local mayor, fire chief, or city counsel--are "on the firing line". They are the first to respond to incidents and the persons most directly accountable for enforcement. Since they find themselves lacking the necessary tools or money to adequately or satisfactorily respond or enforce, it is perceived as easier to pass a law that bans or prohibits even though enforcement may be left for another day. Finally, the genesis of interjurisdictional conflicts was viewed as traceable to frustration; a perceived lack of input into and feedback from the regulatory process (the Federal Register process is not sufficient); a lack of trust and confidence in those who are regulating; and a perceived lack of leadership.

The issue of interjurisdictional conflicts may have been best defined as a "conflict of concerns" with the underlying problem being the need to identify a mechanism to channel and address concerns.