



**STATE OF CONNECTICUT**  
**CONNECTICUT STATE LIBRARY**

231 Capitol Avenue • Hartford, Connecticut 06106

May 23, 1991

Ms. Suzanne T. Vaughn  
SARA Title III Coordinator  
Department of Environmental Protection  
165 Capitol Ave  
Hartford, CT 06106

Dear Ms. Vaughn:

I have received a reply from the Attorney General's office regarding the applicability of statutorily authorized retention schedules, promulgated by this office, to the records generated by the Local Emergency Planning Committees (LEPCS). Enclosed is a copy of that advice.

Since the LEPCS do not constitute a political subdivision, they do not fall under the purview of this office regarding the retention and disposition of records. I would, however point to the last paragraph of that advice, where Mr. Urban stress the importance of developing a uniform records retention policy. This office would be willing to assist you in this effort, should you call upon us for help.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eunice G. DiBella".

Eunice G. DiBella  
Public Records Administrator

Copy: Victoria Wentworth, Agency Records Management Liaison Officer

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PUBLIC RECORDS ADMINISTRATION  
CONNECTICUT STATE LIBRARY

TO: Eunice DiBella  
Public Records Administrator  
Connecticut State Library  
231 Capitol Avenue  
Hartford, CT 06106

FROM: Ralph E. Urban *REU*  
Assistant Attorney General  
110 Sherman Street  
Hartford, CT 06105  
Telephone: 566-7173

APPROVED: Bernard F. McGovern, Jr. *BFG*  
Assistant Attorney General  
Department Head

RE: Local Emergency Planning Committees

DATE: May 14 , 1991

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You have asked this office for advice concerning the applicability of statutorily authorized retention schedules to records and/or documents generated by the Local Emergency Planning Committees ("LEPCs"). While this memorandum does not constitute a formal opinion of the Office of the Attorney General, but is our opinion only, I hope the following is of assistance to you.

Conn. Gen. Stat. § 22a-601 establishes the Connecticut emergency response commission, and further authorizes, in subsection (b), the commission's establishment of local emergency planning committees for each local planning district. While § 22a-601(a) informs us that the commission "shall be within the department of environmental protection ("DEP") for administrative purposes only," the statute simply describes the composition of the LEPCs, leaving further description of the activities of the LEPCs to later statutes. See, e.g. Conn. Gen. Stat. § 22a-607.

As you know, Conn. Gen. Stat. § 11-8 provides that the state librarian, with the assistance of the public records administrator, shall develop and direct "a records management program for the books, records, papers and documents of all state agencies within the executive department....and the books, records, papers and documents of the several towns, cities, boroughs, districts and other political subdivisions of the state," pursuant to § 11-8a. Section 11-8a, covering the retention and disposition of such records also applies, by its own terms, to "each state agency, or each political subdivision of the state...." (Emphasis added.)

In addition, Conn. Gen. Stat. §7-109 provides, in part, that

[a]ny official, board or commissioner of a municipality may, with the approval of the chief administrative officer of such municipality and the public records administrator, destroy any document in his or its custody relating to any matter which has been disposed of and of which no record is required by law to be kept, after such document has been held for the period of time specified in a retention schedule adopted by the public records administrator.

However, Conn. Gen. Stat. §7-148, which defines "municipality," at least for purposes of defining municipal powers, informs us that "'municipality' means any town, city or borough, consolidated town and city or consolidated town and borough." Conn. Gen. Stat. §3-76c(c) defines "municipality" for purpose of municipal bonding authority as "any political subdivision of the state having the power to make appropriations or levy taxes, including any town, city or borough...."

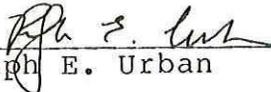
While the Connecticut emergency response commission is under the administrative aegis of the DEP, the LEPCs, while serving designated emergency planning districts (as set up by the commission, and not necessarily coterminous with municipal boundaries), are not themselves "towns, cities, boroughs, districts ...[or] other political subdivisions of the state" within the meaning of § 11-8a. Nor can they be clearly identified as "municipalities" within the meaning of Conn. Gen. Stat. §7-109, especially given the membership make up of the LEPCs, which must include

at a minimum, representatives from each of the following categories: state and local elected officials; law enforcement, fire fighting, civil defense, public health, local environmental, hospital and transportation personnel; members of the broadcast and print media; members of community groups; and owners and operators of facilities subject to the requirements of section 22a-607.

Conn. Gen. Stat. §22a-601(b). This conclusion is bolstered by the fact that generally the legislature, when creating quasi-public or public entities that are deemed to be political subdivisions of the state, explicitly so states. See, e.g. Conn. Gen. Stat. § 22a-261 (Connecticut Resource Recovery Authority is a "body politic and corporate, constituting a public instrumentality and political subdivision of the state...."). Conn. Gen. Stat. § 22a-601 contains no such language which purports to establish such a political subdivision of the state.

In short, the LEPCs appear to be neither fish nor fowl. Unlike the commission, which is arguably part of a state agency (DEP), the LEPCs are neither municipalities nor other political subdivisions of the state. Thus, at this juncture, the LEPCs do not appear to be within the purview of the public records administrator.

From a policy perspective, however, it would appear that a uniform system providing for the retention of LEPC records for a suitable period of time would be highly desirable in view of the LEPCs' primary function--record keeping and emergency planning regarding hazardous substances within their respective districts. Unfortunately, it appears that right now that an effective mechanism for insuring such retention is not in existence. The best practical solution would be for DEP or the commission to issue regulations concerning suitable retention periods for such records. By interagency agreement, the public records administrator could assist the DEP or the commission in setting an appropriate schedule if such assistance was requested.

  
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Ralph E. Urban

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