



Missouri Emergency Response Commission
2302 Militia Drive PO Box 3133
Jefferson City, Missouri 65102
573-526-9113

Missouri Emergency Response Commission Agenda
SEMA State Emergency Operations Center
2302 Militia Drive
Jefferson City, MO 65101
Conference Call Number: 573-526-4747

1:00 p.m.
May 19, 2022

Welcome/Introductions

Commission members Present: Cory Jorgenson, Patrick Seamands, Lisa Cardone, Rep. Bill Kidd, Aaron Schmidt, Terry Cassil (for Director Jim Remillard)
Via Conference Call:

Staff Present: Mike Harris, Karla Marshall, Lisa Jobe, Whitt Kellough, Lana Nelson, and Sara Nelson.
Via Conference Call: Karen Eagleson

Guests: Jamie Kidd, Justin Merritt, Amanda Williams, Alan Cortvrient, Sean Counihan, Hailey Harris, Dustin Martin, and Patrick Stiles.
Via Conference Call: Jodi Harper

Minutes from previous meeting:

Lisa Cardone made a motion to accept the January 27, 2022 minutes as written. Patrick Seamands seconded. Motion carried.

Consent Agenda:

Lisa Cardone made a motion to accept the May 19, 2022 agenda as written. Patrick Seamands seconded. Motion carried.

Reports:

No additions to the agency reports previously provided to the MERC commissioners with the exception of the Department of Resources. Alan Cortvriert stated that Section Chief Brad Harris retired April 30, 2022. Alan is now the Acting Section Chief until the replacement is hired.

MERC Director Report

Second Quarter FY2022 Financial Report: The report was provided to all Commissioners prior to the meeting and in their folders. A synopsis is below:

Financial Update:

MERC

MERC SFY 22 Beginning Balance	\$782,653.46
MERC SFY 22 Expenditures	(-\$486,813.02)
MERC SFY 21 Carryover Payments	(-\$10,634.86)
MERC SFY 22 Tier II Payment Received	\$820,652.66
MERC SFY 22 Damage Funds Received	\$0
MERC SFY 22 Interest Received	\$2,016.13
Total Cash Balance Fourth Quarter SFY 22:	\$1,158,330.89
SAMII Adjusted Cash Balance:	\$1,162,551.15

HMEP

HMEP year two ending balance carry over:	\$96,277.22
HMEP year three beginning balance:	\$333,584.00
HMEP Expenditures:	\$210,334.16
Total Remaining All Years:	\$219,527.06

SFY 22 Appropriations: 05/10/22	Appropriation	YTD Expended
648 MERC Distributions – 0145 (HMEP)	\$750,000.00	\$354,913.57
1382 Firefighter Training – 0587 (FS)	\$100,000.00	\$53,448.37
3882 A G SEMA PS – 0587 (Payroll)	\$172,244.00	\$131,706.59
3883 A G SEMA E&E – 0587	\$85,117.00	\$49,714.61
3884 MERC Distributions – 0587 (CEPF)	\$650,000.00	\$223,825.23

EPCRA/Tier II Section, Lana Nelson, and Karen Eagleson:

There is currently 2,633 active companies in the database. A total of 7,299 facilities have been submitted with a fee sheet. Separated by reporting year:

Reporting Year	Count
2021	6831
2020	7217
2019	126
2018	18
2017	16
2016	5

There was a loss of 196 facilities compared to the 2020 reporting year.

New system updates: We are still working with OA on the many difficult issues for renewal.

EER: Reviews were done on 202 EER Spill Reports.

- One required additional follow up to determine if the facility should file: Northrop/Grumman.
 - Three years of Tier IIs were filed and payment was received in full.
 - Follow up was closed upon receipt of payment.

Flow Study Applications: Thirteen Flow Study Applications were received. Seven were approved. LEPC/Ds approved are:

- Adair County LEPC
- Henry County LEPC
- Hickory County LEPC
- Jefferson County LEPC
- Macon County LEPC
- Saline County LEPC
- Taney County LEPC

Training and Exercise Section, Lisa Jobe and Whitt Kellough:

10/1/21 to 4/19/22

Date	Course	Location	# Trained
Oct 1, 2021	Operations	Jefferson City	9
Oct 2, 2021	Class B Foams	Cedar County	Cancelled- Low Enrollment
Oct 3, 2021	Class B Foams	Butler	4
Oct 4, 2021	Hazmat Tech 80 Hour	Jackson	12
Oct 5-6, 2021	Propane	Caledonia	Cancelled- Low Enrollment
10-16, 2021	Class B Foams	Hollister	19
Oct 18-19, 2021	Ethanol	Paris	10

October 20, 2021	Class B Foams	Monroe City	10
October 21, 2021	Anhydrous Ammonia Awareness	Salem	10
October 23, 2021	Propane	El Dorado Springs	8
October 23, 2021	Hazmat Rapid Sizeup	Fulton	8
October 25, 2021	Hazmat Rapid Sizeup	Columbia	11
October 28-31, 2021	Operations	Cassville	15
November 1-2, 2021	Awareness	Tuscumbia	10
November 4, 2021	Hazmat Rapid Sizeup	Columbia	14
November 5-7, 2021	Operations	Maryville	Cancelled-low enrollment
November 6, 2021	Class B Foams	Washington	11
Nov 18, 2021	Hazmat Basic Life Saver	Washington	Cancelled-low enrollment
December 2, 2021	Hazmat Rapid Sizeup	Columbia	9
December 6, 2021	MC306	Olivette	10
December 8, 2021	MC306	Jackson	16
Dec 11-12, 2021	Operations	Cape Girardeau	11
March 2, 2022	LEPC 101	Jefferson City	7
March 2, 2022	Awareness	Jefferson City	15
March 3, 2022	Awareness T-t-T	Jefferson City	7
March 12, 2022	Hazmat Rapid Sizeup	Clinton	16
March 16, 2022	LEPC 101	Warrensburg	11
March 29, 2022	Hazmat Basic Life Saver	Mount Vernon	Cancelled-Low Enrollment
March 30, 2022	LEPC 101	O'Fallon	23
April 4, 2022	Anhydrous Ammonia Awareness	Boonville	23

April 9, 2022	Awareness	Ava	9
April 9, 2022	Hazmat Rapid Sizeup	Tuscumbia	Cancelled-Low Enrollment
April 11, 2022	Hazmat Tech Refresher	Columbia	15
April 12, 2022	Hazmat Tech Refresher	Columbia	11
April 15, 2022	Hazmat Tech Refresher	Columbia	15
TOTAL			349

ERG Distribution

We are still getting sporadic ERG requests weekly. We are sending those out as requested. We still have a decent supply left so if you know of any needs, let me know.

MERC Compliance Investigations Program:

An investigation into DRT Ammunition was opened in 2021. The investigation into DRT found that this company has been in functional business for more than 15 years manufacturing ammunition. The investigation found that there had been no Tier II reports submitted and no fees paid during the total existence of this company. DRT leadership was notified of the finding and a visit scheduled. The investigation and compliance visit resulted in DRT Ammunition Company and the facility becoming compliant.

2023 Central States Hazmat Preparedness Conference:

LEPC/Planning Section, Sara Allen:

MERC Newsletter

- The next quarterly newsletter will be sent out on May 29, 2022 to all LEPC/LEPDs to include all information and decisions resulting from the meeting

HMEP Grant Award Update:

We have received our new allocation amounts for the 2022 – 2025 Hazardous Materials Emergency Preparedness Grant from PHMSA. The HMEP grant awards are based on:

- 2020 Census state-level population density
- Incident frequency
- Average cost if incident by transport mode (rail, water, air, highway)

After I was appointed as Executive Director, I began to notice a decline in the amount Missouri was receiving in grant awards and I compared this to the other states that bordered Missouri. I found that some states were receiving significantly more in HMEP awards than Missouri and it

didn't seem logical. It just didn't seem like we were getting credit for all of the incidences we should have been. So, I contacted PHMSA and asked if I could gather data on the incidents we have here in Missouri and send them what our total number of incidences were at the end of each year for them to compare and make sure we were getting credit for all of the Hazardous Materials incidences in Missouri. At the end of September last year, I sent in well over 800 Hazardous Materials and Chemical incidences that were reported in Missouri. When we received our award notification, we received a substantial amount more than we have in the past five to six years. The following are the amounts we have been allocated and will receive on October 1st of each new fiscal year:

Year 1 2022 – 2023: \$491,796.00

Year 2 2023 – 2024: \$440,564.00

Year 3 2024 – 2025: \$440,564.00

I will be continuing to gather all hazmat and chemical incident data and send it to PHMSA at the end of September each year. I am hoping to increase our award to at least \$500,000.00 at the end of the next grant cycle.

Old Business

MERC NDI and Budget SFY 2023 Update

Director Harris is working with SEMA's Fiscal Department for the NDI for next year. It will be the same as last year's NDI request. He will have an update at the first quarter meeting in July.

EMD Exclusion Policy Repeal Update

This is the last meeting to receive a decision from the Department of Public Safety (DPS) Director Karsten. One has not been received to date. It is now a No Decision. The Commission, if interested, may take a relook at the first quarter 2023 meeting to try to repeal the EMD exclusion again. The same process will take place if the Commission votes to repeal the exclusion at that time. The DPS Director will receive the repeal and send through her legal department again.

Lisa Cardone asked for clarification on this issue. Director Harris explained the process when having to receive approval from the DPS Director. Corey Jorgenson, acting as chair for this meeting, asked if the commissioners wanted to discuss this issue further. Due to no request to further discuss this issue, the meeting continued onto the next item on the agenda.

Legislative Update

Both Director Harris and Rep. Bill Kidd stated that no recommendations were moved to the legislature. Recommendations were moved to DPS. Rep. Kidd stated that he has not received any at this point. We have other issues to discuss regarding legislation in open business. In 2024, it will be time to recertify the commission. No one at SEMA is assigned to work on this process currently. SEMA Deputy Director Terry Cassil discuss the process and Director Harris elaborated.

Update on Million Dollar Cap

Director Harris reported the CEPF account currently have \$1.2 million in the account. There are approximately 700 additional facilities that remain to file. The amount that will be added to the account for those 700 facilities will likely reach \$400,000.

The dispensation request for the million-dollar cap was sent through SEMA and DPS to the Governor's office. No response was received. Fortunately, the CEPF fund did not exceed the million-dollar cap as of March 1, 2022. For 2023, as it is already over the cap, without dispensation the account will exceed the cap.

Rep. Kidd said it will take an act of legislation. It could be viewed that the CEPF fund is in violation of the cap and could be swept. Due to a surplus in state funds, it will not be as likely to occur this year. The commissioners discussed what is looked at every six years. Director Harris noted that legislation states that none of our funds can be swept and sent to general revenue. Rep. Kidd suggested that the new legislative language read as 10% about current balance as the cap rather than at set dollar figure. This will require new legislation to make this change.

Rep. Kidd told the commissioners that new legislative language be ready and sent to a representative and senator in December. It needs to be brought to the legislative body in January but definitely before March or it will not be brought up to the House and Senate.

Lisa Cardone asked why the CEPF is over. Director Harris explained there are more companies filing and some counties are not choosing to apply for their CEPF funds. It was asked how other states handle this type of situation. Director Harris explained how we do things differently than most states as we go through the state legislature. Terry Cassil noted 65% of the CEPF funds are returned to the counties. Director Harris stated this is by state. The state of Kansas is looking at doing things as Missouri does. Rep. Kidd reiterated we need to have the language to the House and Senate by this December as that is when bills are filed.

Update on CEPF Shortages to LEPC/LEPDs

This was not due to a glitch in the new system as originally thought. The shortage were due to filing after June 15 when SAM II shuts down for fiscal year end processing. The payments made after June 15, 2021 are included in the 2022 totals. The counties did receive the money.

Update on Tier II System

We are working ITSD with some system situations. OA promised it will be up and running and into production. Director Harris said we are 1.7 years past the original due date and \$35,000 over the budgeted amount. OA ITSD will keep charging for any glitches. Mike discussed the issues we are having. The original cost was \$140,000 with an October 2020 completion date.

We have alternatives. The EPA has a system that will work for the short term which will give us a chance to look for a new company to build a new system. Patrick Seamands asked if we have

specifications for the new system. We do and had those when OA ITSD was developing the current system. Director Harris noted that the EPA system would leave us having to figure things manually. A lengthy discussion ensued. Aaron Schmidt spoke of an example DNR utilized with their Water Permit Program. Karen Eagleson mentioned the “fix” process and how it causes other glitches. Corey Jorgenson said if the current people can’t get it done, we are stuck. Rep. Kidd explained the appropriations process and said a new system is 1 ½ to 2 years out. He asked for Terry Cassil’s opinion. Terry said we should wait until after Tuesday’s push to determine if it works and what would be our next step. Director Harris said if the system crashes after the “push,” we will shut down the system and work paper copies. Rep. Kidd stated at that time we will need to involve SEMA Director Remillard, SEMA Deputy Director Cassil and DPS Director Karsten in the conversation to require a workable system.

Local Emergency Planning Districts Designation Update

This is tabled and is simply listed as a reminder for the next Commission meeting in July, 2022.

Update on Regional MERC 101 Meetings

The commissioners are getting good reviews. The MERC enjoys the face-to-face communication. We are working with those who attend the meetings. The attendance has not been high; however, we are sharing the presentation with all who wish to participate. In 2023, the MERC will be hosting the Central States Hazardous Materials Preparedness Conference in place of the EPA Region VII Conference. In 2024 the MERC is going to have a one-day symposium in each region similar to the MERC 101 meetings.

Patrick Seamands and Aaron Schmidt asked if the MERC is listening to the concerns of our citizenry. Director Harris assured the commissioners we are addressing their concerns and providing information. We are taking a kinder and gentler approach with our clientele.

Update on Quarterly Reports from LEPC/Ds

Questions by the LEPC/LEPDs are being asked as to why these are necessary. Sara Allen needs to know what they are spending and what they are depositing. This is a compliance requirement. Patrick Seamands asked if they were public documents. Yes, they are annually; but the commission made a rule a couple of meetings ago to make them quarterly. Rep. Kidd asked what statutory enforcement arm the commission has to require compliance. Director Harris stated if they are not in compliance, we withhold the money. If they misappropriated funds, we could have charges brought against them. Lisa Jobe discussed why it happens. A lengthy discussion followed. Rep. Kidd asked if we keep the money, are we in violation. Aaron Schmidt shared how they handled a similar situation with the solid waste management districts. They hired contractors who didn’t use anything with DNR’s logo. They acted to help the districts which in turn helped DNR. Is there a way to incentivize this? CEPF contracting is different than HMEP contracting. Additional discussion ensued.

Patrick Seamands suggested sending a Sunshine Request for documents to the county attorney. Rep. Kidd said to send the request to the commissioners and LEPC/LEPD members. Cory Jorgenson noted we need to figure a way to smooth things over. Director Harris will send out letters to alert that CEPF money is about to be lost to those not in compliance. Lisa Jobe gave thoughts on what she's heard from LEPC/LEPDs. Director Harris said we are not micro-managing. We are holding them accountable to state and federal rules and regulations and MERC rules. Cory Jorgenson said we will have to deal with dismal quarterly reports. Director Harris will bring a list of LEPC/Ds not in compliance as of July 1, 2022. Rep. Kidd asked if Director Harris could tell us what they're going to lose. They will lose their CEPF funding.

New Business

Purchase for Winter Fire School

Rep. Kidd motioned to purchase the Ozark Trails cooler for \$39.97 for Winter Fire School immediately. Lisa Cardone seconded. Motion carried.

Determination Needed to Use County of State Surplus Property Rules

Director Harris has received questions on whether a county should use county or state surplus property rules when they have items to surplus. The commission said to let them figure it out themselves.

Determination Needed on LEPC/LEPD Quarterly Report Format

This was discussed in old business. The commission will move onto the next item on the agenda.

LEPC/Ds Using HazMat Incidences with AARs as Exercises

Cory Jorgenson asked Director Harris to explain these as exercises. He explained that LEPC/LEPDs use real world experiences and meet after them to develop and After-Action Report (AAR). Cory asked if this could cause problems with DNR. It is a possibility. The exercise must be reasonable and proper. The LEPC/LEPDs will have the incident, review actions, and write an AAR.

Lisa Cardone motioned to allow LEPC/LEPDs to use actual hazardous materials incidences with AARs as exercises. Aaron Schmidt seconded. Motion carried.

NFPA – MERC Funds for Either Registration or Travel Costs for Two Staff/Contractors

Two of our fire instructors are asking for assistance to attend the NFPA conference. We could either help with travel expenses or pay their registration costs.

Lisa Cardone motioned to pay the registration fee to the NFPA Conference for two instructors. Aaron Schmidt seconded. Motion carried.

MERC Working With Organizations to Giver Trainings for Farmers with Certification/Waive Fees

Director Harris does not want to get into a civil war with farmers. The MERC would like to work with MFA and other companies to provide trainings farmers could attend and have Tier II fees waived. Some trainings can be done online.

The goal in this is to account for all the chemicals/hazardous materials used in farming. This will ensure first responders are situationally aware going into an incident,

Lisa Cardone motioned to table this conversation until the July meeting. Rep. Bill Kidd seconded. Motion carried.

Information Discussion Items for the Commission

Hazardous Materials Plans are required. They are a compliance requirement for exercises. It must be a standalone plan and not an annex or part of the EOP. Next year planners will create a new template, contact the LEPC/LEPDs personally and the planners will write the plans for them. Then they must be reviewed, updated, and approved annually by the LEPC/LEPDs. Sara will create a new updated hazardous materials response plan. Director Harris is trying to make this process easier especially for small counties.

Current Litigation Around the Country

Rep. Kidd spoke lawsuits on underserved communities not covered in plans, specifically underserved minority population. More will be coming down the pike to require specific service to underserved communities. It must be a subset to overall hazardous materials plans for underserved populations. We need to take this seriously. What do we do for the underserved population?

As of now, New Jersey is in negotiations for a response settlement. Other cases were dismissed with prejudice against the LEPC/LEPDs as they are supervised by State Emergency Responses Commissions. SERC and the states' governor can be sued but not the LEPC/LEPDs.

What is needed are specifics for the underserved populations and those covered by the Americans with Disabilities Act. Deputy Director Cassil asked what they are calling the underserved. Are they using SVI? What needs to be considered? For example, St. Louis City doesn't address how things are going to be handled. This is tabled to another meeting. Director Harris will gather additional information for the July meeting. Patrick Seamands asked us to find a plan including underserved and disabled specific to a separate response.

OPEN/

Sara Allen thanked DNR and MERC's Karla Marshall for providing information of environmental emergency responses (EERs). From data received from January 2021 through May 2022, she has the EERs per LEPC/LEPD on what incidences occurred within a certain timeframe. It allows them to recognize possible exercise ideas. It is a valuable tool. Aaron Schmidt noted DNR's MERTT system has GIS that maps the locations of incidences if that would be helpful.

Director Harris realized that the MERC was receiving minimal HMEP funds from PHMSA of \$310,000 to \$380,000. Lisa Jobe put together information for him. He looked at the incidences notably in comparison with neighboring states. DNR sent EERs, they were reviewed and Director Harris sent the listing to PHMSA in September 2021. It was determined that PHMSA wasn't being made aware of all the incidences occurring (only those reported to the NRC). After receiving all of the additional incidences, the new allocations have been increased beginning on October 1, 2022 as follows:

Year 1 (2022=2023)	\$491,796
Year 2 (2023-2024)	\$440,564
Year 3 (2024-2025)	\$440,564

As PHMSA wasn't receiving all of the incidences and the number of incidences from the NRC and DNR will be reported, Director Harris' goal for future HMEP grant funds is \$500,000. Incidences will continue to be reviewed and the information shared with Sara Allen so she may share with the counties and LEPC/LEPDs.

As Representative Bill Kidd will be term limited out this year, the MERC presented a Certification of Appreciation for his faithful services to the Missouri Emergency Response Commission and the citizens of the state of Missouri. Director Harris also presented a Director's Coin to Rep. Kidd.

With regard to the EPA Region VII Conference in 2023. As previously stated, the MERC is sponsoring the conference. The MERC staff is handling all aspects of the Central States Hazardous Materials Preparedness Conference at the Hilton Garden Inn in Independence, Missouri on June 7, 8, and 9 with check-in on June 6, 2023. Missouri Governor Parson, DPS Director Karsten, SEMA Director Remillard and Deputy Director Cassil have been invited.

We are working with five federal agencies: FEMA, ATF, FBI, Homeland Security and PHMSA along with the Assistant Secretary of the Interior/BIA for this conference. We have invited all of Missouri's neighboring states to attend and participate in the planning. We will have training sessions, breakouts and are working with the railroad and pipeline. The conference is paid by HMEP funds.

There is a line item in the next budget for 2022-2023 for \$45,000. The Missouri Trooper's Association will be taking registrations and fees. Thursday night of the Conference will be the Awards Banquet. There will be more information to come.

The next MERC Commission meeting for the first quarter of state fiscal year (SFY) 2023 is Thursday, July 21, 2022 at 10 a.m.

Lisa Cardone motioned for the meeting to adjourn. Rep Bill Kidd seconded the motion. Motion carried. Meeting adjourned at 3:24 p.m.

Respectfully submitted,

Karla Marshall

Karla Marshall