



**Missouri Emergency Response Commission**  
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Missouri Emergency Response Commission Minutes  
Hilton Garden Inn – Independence  
19677 East Jackson Drive  
Independence, MO 64057  
Location: Lewis and Clark Room (Hilton Garden Inn)  
WebEx Call In: (650) 479-3207 Meeting # 2450 857 5535

1:00 p.m. June 6, 2023 (Lunch at Noon)

**Welcome/Introductions**

Chairman Chris Berndt called the meeting to order at 1:00 p.m.

Commission members Present: Chris Berndt, Lisa Cardone, Aaron Schmidt, Jim Remillard,  
Rep. Tim Taylor, Rep. Sean Pouche  
Via Conference Call: Cory Jorgensen

Staff Present: Stephen McLane, Karla Marshall, Lisa Jobe, Lana Nelson, Sara Allen, and  
Karen Eagleson

Guests: Tim Gablehouse, Greg Landwehr, Zac Davenport, Matt Loehr, Cody Garner, Keith  
Henke, Jeremy Wilson, Sean Counihan, Jeff Riddle and Jim Henry

**Minutes from previous meeting:**

Lisa Cardone made a motion to accept the minutes for March 2, 2023 as written. Rep. Sean  
Pouche seconded. Motion carried.

**Consent Agenda and Reports:**

All agency reports were provided via email and in the meeting. Stephen McLane noted an  
addition to the Department of Health and Senior Services report, in that Will Brantley  
(DHSS for 20 years) had recently passed.

The Division of Fire Safety's Greg Landwehr stated all funds are obligated. \$83,000 spent  
and some classes were cancelled. They will be returning \$1,361.57 to the Missouri  
Emergency Response Commission.

Internal Review: Internal Review of spending authority will roll into 2024 for legal review.  
In regard to late fees for Tier II filers, some companies were charged late fees while others  
were not charged late fees. OA is looking into the issues at this time. We are having DPS  
legal look into fixing the wording in the law.

Documentation for commission review: Necessity of documents for LEPC for commission review. Trying to reduce paperwork burden for LEPC/Ds.

Application change  
HazMat plan template

## **Old Business**

### **Update on MERC Budget and Staffing**

MERC hired a HMEP contractor (Paige Lewis) to write standard operating procedures – required for PHMSA. Filling the part-time position for CEPF is in the works. Due to the vacancy of the part-time employee, MERC has a little money left. E&E and staff are split 50/50. Stephen needs to move money over to staffing from E&E as the MERC needs more personal service than equipment.

A map is provided in the packet of LEPCs that have received and requested funds. Sara Allen is working on it. A handful of counties have started the process. MERC will run out of appropriation authority before they run out of funds. We would rather send it back rather than just spend it. All funds that come into the MERC stays with us and don't go back to General Revenue.

### **Update on Tier II System**

MERC had previously granted very limited access to the computer system as kinks were being worked out. We are slowly giving access as people request it. We are double checking that the companies that have a trade secrets stay protected. Trade secrets remain trade secrets, but IT are working on coding to ensure once resolved, we will be provided access to whomever asks such as fire departments, law enforcement, and LEPC/LEPD (Chair, Vice- Chair and Coordinator) so that every LEPC/D are all required to have process to provide access to the public. The LEPC/Ds can share as needed.

Stephen did a review of state/federal law and found that we weren't compliant under EPCRA as far as letting people come and look at chemicals in the area. We aren't good at informing citizens as they have the right to know the companies within their area that store above the threshold quantities of chemicals in their area. We are supposed to allow for public information on chemicals in our community.

MERC is making a few changes:

We haven't tracked help calls and hours spent helping. The system is working now. In January, filers will have to use Jet Pay to pay with either an e-check or credit card. Paper checks are not going to be accepted. Jet Pay is a proven system. Missouri Department of Revenue uses it to take payments. A discussion ensued regarding any leeway. Stephen said no; however we will help them through the process.

In March after the Tier II filing season ended, we started granting Fire Departments and LEPC/Ds access to the Tier II system.

## **Update on Local Emergency Planning Districts Designation:**

LEPCs that haven't submitted their CEPF Application were paired with the other counties that have submitted their CEPF applications.

There are three counties placed in a district who are requesting removal from their district. All three counties have their ducks in a row: Linn, Chariton, and Harrison. Randolph County will be on its own. There are four to five remaining LEPCs which need to be approved.

Stephen stated that the LEPD Kickoff Meetings he has attended have gone well. He explained the process to them.

## **Use of 10% Funding by the Division of Fire Safety for Certifications and Use of LMS System**

Per Stephen, 10% funding for Fire Safety is for training not certification. They are also using the funding for the LMS System. Money was used for records management not for certification or not training. Fire Safety utilizes the funding for certification and LMS, Records Management.

Stephen stated that the 10% of CEPF funds collected sent to DFS are:

- to be used for training
- to be reviewed annually by the commission

Commission guidance is needed on whether Fire Safety is using the funding appropriately. Cory Jorgensen asked what our lawyers say. Jim Remillard said we can submit to new lawyer for review. Cory Jorgensen wanted to table this for legal review.

Greg Landwehr was asked if Fire Safety needs this money for training. Greg said they will provide free Awareness on LMS that student can do. The law says 10% is for hazmat training. LMS and certification are two separate things. MERC wants to make sure people are safe.

The Commission wants to ask the lawyer for interpretation on the definition of training. Greg said under NFPA standards, Awareness is scene management. Operations – now what do we do? With HazMat Tech Upper level and Tech Rescue, Fire Safety used funding to pay for certifications. Fire I and II – 850 departments in state runs A/O certification. Cory said to table this for legal review. Stephen will request legal review. Needs to be documentation for proficiency.

## **Update on Status of MERC Logo Change Awaiting DPS Director Approval**

There will be no logo change per Stephen.

## **Update on LEPC HazMat Grant 2023**

How we spent the money:

\$1 million to give  
\$800K requested for radios, generators were denied.  
\$630K reimbursed to LEPCs

Overall it was a learning moment for MERC, Fiscal and LEPCs. The biggest hang up was the short turnaround time. MERCC is hopeful we will have a great next round. Some LEPCs did a great job to be prepared. Meramec LEPC gave boom and pad to all fire department in their LEPC. Also they stored boom and pad along the I-44 corridor. Gas meters were a significant buy also.

Next round we will have a longer range. We will try to match equipment to the skillset of the area. Also, make sure this was going to be a shared asset. Another million will be available in July. Under spiller pay, they should be able to recoup that from the spiller. This state money – General Revenue that can be used in Missouri – not federal money.

This looks like something we are doing to truly help the locals. This is the journey we've been on with LEPCs for four years, getting them to be compliant with laws. Also partner with Department of Natural Resources to show how to use air monitors. LEPC got meters from grant goes to DNR set up the air monitoring class with HMEP money. Generator radios didn't pass. It is anticipate that next year we will have many more requests. Drones on last year's list, we denied drones. We are working on whether to approve for the next year or not. Need a list of items provided with grant of what they can buy and things they can't buy.

Plan:

Make communication safer  
Match funding with skill level

### **Update on EMD Chair Policy Repeal**

EMD Chair with LEPC has been repealed. Some EMDs were mad that we repealed it. Done deal - we moved on.

### **New Business**

#### **Draft Meeting Minutes Posted to Web Site Prior to Approval, Yes or No?**

Do not post until approved.

#### **Does the Commission want to Require Annual Plan Exercise?**

Keep it yearly but let them know it could be simplified. Few states mandate annually. A discussion ensued.

Rep. Sean Pouche motioned to make it an annual exercise, educate them on what is available, then revisit annually for review. Tim Gablehouse said that most don't have mandated requirements. A Hazmat plan like ESF or annex would be sufficient. Jim Remillard said this will promote a positive for helping the LEPC/D be better aware make

up a tabletop exercise and send it to them. Sean Pouche and Tim Taylor says make it an annual exercise, educate them on what's available, then revisit annually for reviews. Rep. Tim Taylor seconded. Motion carried.

**Use of CEPF funds for SEMA Conference:**

The SEMA Conference has two HazMat courses:

Sean Counihan and Stephen McLane are teaching one.

Sara Allen and Karen Eagleson are providing LEPC 101

If we require proof, we will make it tough. Will there always be HazMat at the SEMA Conference? Answer: Yes.

Rep. Sean Pouche motioned to use CEPF funds for registration only to the SEMA Conference. Cory Jorgensen seconded. Motion carried.

**Discussion on state of the MERC document**

Rep. Sean Pouche said we need to revisit this at the next meeting.

**Discussion of CEPF fund distribution to counties**

We have been doing this wrong since 1986. The new Tier II system has substantially changed what LEPC get. CEPF funds distribution of funds by legal interpretation has been done wrong, since from the beginning. (1986). Broken down for the LEPCs to get 65% of the money along with 10% goes to the Fire Safety Department and 25% goes to the MERC for Administration. We are working with legal and IT to fix this issue for the use of dispersement of funds. The small counties will get more whereas, the large counties will get less money. Lisa was to give clarification and told the commission that a total of 114 counties with KC and ST. Louis (population over 400.000 in multiply counties are also splitting the money). The 2023 CEPF application and compliance checklist was approved

The Big Pot:

10% Fire Safety

25% MERC

65% Back to LEPC/LEPD

The 65% is to be divided as follows;

1/3 divided among 114 counties and St. Louis and Kansas City - \$1,638.18 each

Remaining 2/3 of 65% is to be sent back to the county based on the number of facilities in the county. The amount comes to approximately \$12.31 per facility.

A large chunk of the state will get more money back. Larger counties will get less, much less. This was the legal interpretation. The intent was to ensure everyone got something. LEPC/LEPDs can plan a response to Break Time for \$12.31. They cannot plan a response to Bayer Crop Science for \$12.31.

Worth County didn't get much. LEPCs can now pool money for a better response. When reformulating the law, we only need to look at how we distribute this money. Tim Gablehouse stated that Kansas, Colorado, Oklahoma, Arizona and Texas use nonprofits to fund LEPCs (done in a lot of states). In 2024, one option is stop giving it back to locals. Aaron Schmidt noted it reminds him of what DNR did with the RCRA reformat.

Stephen wanted to bring everyone up to speed on what we found. It's a holdup to reprogram the system. Worst case scenario example is St. Louis \$49K where last year they got \$50K. Ozark County received \$350.52, next year will receive \$1,970.

### **Approval of 2023 CEPF Application and LEPC/D compliance checklist**

Stephen said flow studies are junk. He said it is better to review Tier II data. He wants to get rid of the flow studies. Chris Berndt asked what would happen to the money. Stephen would put it to training. Jim Remillard suggested reviewing Tier II as a tabletop exercise. Stephen noted that state agencies are going to start talking to each other and sharing data. The application process changed to match the checklist. "Will" was changed to "could" to do inspections. What is hazard analysis?

Rep. Tim Taylor motioned to remove comprehensive flow study, require company hazard analysis requiring eliminated flow study grant. Add the HazMat plan exercise annual requirement. Remove RSMo and added MERC Commission approval. Remove send exercise proposal to LEPC/Planning Coordinator by deadline. Rep. Sean Pouche seconded. Motion carried.

Jim Remillard motioned to seek legal input in evaluating the process of HazMat planning for each county. Lisa Cardone seconded. Motion carried.

### **FY 2024 NDI and sunset of fee structure and law revisions**

Stephen discussed what needed changed. No further action needed by the Commission at this time.

### **Chariton County LEPC, Linn County LEPC and Harrison County LEPC Opt Out Requests**

Lisa Cardone motioned to approved Chariton, Linn and Harrison counties opt out request from their respective LEPCs. Rep. Tim Taylor seconded. Motion carried.

### **Special Guest**

Tim Gablehouse gave a presentation on the latest information from NASTTPO and other regulatory emerging issues. NASTTPO represents SERCs in Congress. Funded by Philanthropic groups and non-Philanthropic groups. NASTTPO provides guidance. You can see documents on website for the LEPCs. NASTTPO is to assist LEPCs with how to navigate data.

### **4 Key Steps for LEPCs and the community**

- 1) Engage-be part of the community.
- 2) Tell people what you do.
- 3) Explain how response works
- 4) Tell people what you cannot do  
Be honest

Create expectations.

Stephen thanked everyone for participating in this long meeting.

The next meeting is to be in September, 2023. The suggestion was for the week of September 11<sup>th</sup>. Actual date is to be determined at a later date.

Rep. Tim Taylor motion to adjourn the meeting, Lisa Cardone seconded. Motion carried.

Meeting adjourned 4:50 p.m.

Respectfully submitted,

Karla Marshall

Lana Nelson