



**Missouri Emergency Response Commission**  
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Jefferson City, Missouri 65102  
573-526-9113

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

10:00 a.m.  
July 28, 2022

**Welcome/Introductions**

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

Staff Present: Mike Harris, Karla Marshall, Lisa Jobe, Whitt Kellough, Lana Nelson, and Sara Allen, Karen Eagleson

Guests: Greg Landwehr, Alan Cortvrient, Sean Counihan, Keith Henke, Dustin Martin, Patrick Stiles, Tammy Snodgrass and Stephanie Mertens  
Via Conference Call: Jodi Harper

**Minutes from previous meeting:**

Rep. Bill Kidd made a motion to accept the minutes for May 19, 2022 as written. Cory Jorgenson seconded. Motion carried.

**Consent Agenda and Reports:**

Cory Jorgenson made a motion to accept the consent agenda for July 28, 2022 and no additional changes to reports. Rep. Bill Kidd seconded. Motion carried.

**MERC Director Report**

First Quarter FY2023 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 23 Beginning Balance	\$1,009,648.91
MERC SFY 23 Expenditures	\$0
MERC SFY 22 Carryover Payments	(-\$10,084.80)
MERC SFY 23 Tier II Payment Received	\$846.00
MERC SFY 23 Damage Funds Received	\$435.22
MERC SFY 23 Interest Received	\$53,676.19
<b>Total Cash Balance First Quarter SFY 23:</b>	<b>\$1,054,960.29</b>

**HMEP**

HMEP Total authorized all years:	\$1,251,565.25
HMEP total Expenditures through June 30th:	\$1,098,409.59
<b>Total Remaining All Years:</b>	<b>\$153,155.66</b>

<b>SFY 22 Appropriations: 06/30/22</b>	<b>Appropriation</b>	<b>YTD Expended</b>
648 MERC Distributions – 0145 (HMEP)	\$750,000.00	\$405,729.58
1382 Firefighter Training – 0587 (FS)	\$100,000.00	\$62,523.37
3882 A G SEMA PS – 0587 (Payroll)	\$172,244.00	\$159,857.41
3883 A G SEMA E&E – 0587	\$85,117.00	\$56,670.15
3884 MERC Distributions – 0587 (CEPF)	\$650,000.00	\$227,662.12

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

There are currently 2,648 active companies in the database. A total of 7,369 facilities have been submitted with a fee sheet. Separated by reporting year:

Reporting Year	Count
2022	7369
2021	6831
2020	7217

There was a gain of 538 facilities compared to the 2021 reporting year.

**New system updates:** The system is still up and running. What was thought to be a glitch wasn't. It was due to late filing, which moved the Tier II into the next fiscal year. If they are not filed in time, this will continue to happen and affect the CEPF amounts to counties. Chris Berndt asked if the company files late one year and early the next, will both be added to the same fiscal year. Mike stated "yes, the system will work with this."

In June, Karen worked with OA ITSD on nine fixes to the system. There is an issue with copying Tier IIs from 2020 to 2021 as both show up in the paid system. The formula was wrong but is now fixed. OA is going back to the 2020s to back them out. OA did upgrades and fixes which were tested by MERC staff in the last week of June and then pushed out that same week. No additional glitches have been found to date. The MERC has a two-part pay system which

acts as a check and balance with MERC and SEMA Fiscal. Executive Director Harris met with the OA Program Director, SEMA Director Remillard met with his counterpart and DPS Director Karsten met with her counterpart to discuss the system. The system must be 100% by November 1, 2022 to be tested in November and December of 2022. It must be fully operational on January 1, 2023.

SEMA Deputy Director Terry Cassil asked if we can limit entry into the system during peak times. MERC Director Mike Harris said the system cannot write that in or will not do so. The overall system is on two servers and OA ITSD states they can handle the volume. A summary was given of last year's problems such as system slow down or shut down. Due to these issues, the MERC had to eliminate late fees for the year.

It was asked why OA ITSD built the system. Director Harris was told the MERC had to use them. We have add-ons for the futures. We are also moving in the right direction. Patrick Seamands asked if LEPCs can run inquiries. Karen answered that we are going to start by invitation to the Chairpersons by region to log into the system. They will be granted "view only" to their specific area. LEPCs will request access to their counties only. Karen has been or will be emailing the Chairpersons. If she does not receive an answer, she will call. We are currently protecting the system. Cory Jorgensen said if anyone has questions to send them to Mike or Karen. Patrick asked if LEPC/Ds have to request for each county. No they will check only the counties in their specific area. It was noted that Meramec LEPC has already been notified.

**EER:** There were 246 EER spill reports forwarded to the MERC from the Department of Natural Resources. After researching, six letters were sent to facilities who did not show as filed in our Tier II system. This brought in a new filer – McBee Farming, and two previous facilities were brought into current filing compliance – Clinton Municipal Airport and Gilster Mary Lee Corp.

**Flow Study Applications:** Various LEPCs have been clarifying the flow study process and all appear to be on track to completion by the required deadline of July 30, 2022:

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

**Training, Exercise and Outreach Section, Lisa Job and Whitt Kellough:**

**MERC Courses**

5/31 Anhydrous Ammonia Awareness, Preston, MO  
6/1 MERC 101 Region D  
6/6-8 CAMEO-Jefferson City  
6/15 MERC 101 Region E- CANCELLED- LOW ENROLLMENT  
6/18 Chemical Suicide- Rockport - CANCELLED- LOW ENROLLMENT  
6/18 Hazmat Basic Lifesaver Provider- Butler  
7/9-10 & 16-17 Hazmat Operations- Springfield

7/16 Hazmat Rapid Sizeup - Pittsburg  
7/21 Hazmat Tech Refresher- Hannibal  
7/22 Hazmat Tech Refresher- Hannibal  
7/23 Hazmat Awareness - Nevada  
7/23 Handling Propane Gas Emergencies - Neosho  
7/27 MERC 101 Region H - Cameron

### **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:**

Whitt is investigating as potential cases come to him.

### **2023 Central States Hazmat Preparedness Conference:**

June 7-9, 2023

Hilton Garden Inn

19677 E Jackson Drive

Independence, MO 64057

Planning continues. A save the dates notice should be out before the end of July.

### **LEPC/Planning Section, Sara Allen:**

Sara will discuss LEPC and planning items in Old Business.

### **MERC Newsletter**

- The next quarterly newsletter will be sent out on August 12, 2022 to all LEPC/LEPDs to include all information and decisions resulting from the meeting

### **Old Business**

#### MERC NDI and Budget SFY 2023 Update

NDI stands for New Decision Item. The NDIs are in for the coming year. They were put in the same as last year. We got an additional \$100,000 for state fiscal year 2023 due to paying CEPF (due to late submissions) thus draining the fund. Mike has submitted it be raised to \$750,000 to pay in the same year they apply. Another request is for an additional \$40,000 for SEMA E&E 0587 for supplies. Mike asked for an additional two FTEs and is keeping his fingers crossed. Chris asked about the process these NDIs and budget requests take. Mike explained they go through SEMA to DPS then to the Governor. Lastly, they go to the legislature and at any step can be denied, but must make it all the way through to be approved.

## Update on CEPF shortages to LEPC/LEPDs due to Tier II System Glitch

CEPF shortages are caught up. As previously stated, this wasn't caused by a system glitch but rather by late filings causing the Tier IIs to be calculated in the system in the new fiscal year. If they continue to file late, this will continue to happen. They must file prior to June 15 to stay in the same fiscal year they are filing. Whitt is working with the LEPC/Ds and facilities.

## Update on Tier II System:

Previously discussed; however, we are moving forward with the system pushes and testing.

## Local Emergency Planning Districts Designation Update

Mike wants to discuss how we move forward designating LEPDs. In the third quarter 2022 Commission meeting it was decided to leave current LEPDs as they exist. Those that are non-existent will have the LEPCs left in their region and it will be optional whether or not to join the LEPD. There are a lot of small counties awaiting a decision from the Commission. Finances are definitely an issue for some counties. By statutes, we were already supposed to have done this. Sara Allen described the coloration of her map for Lisa Cardone with regard to the LEPC/Ds. Mike and Sara went over the received CEPFs and Whitt's map of exercises. The deadline for CEPF applications is to be postmarked by no later than August 31. Lisa Cardone asked "what happens if they are not received by the deadline?" If they are not received by the required date, no CEPF funds will be received per Sara and reiterated by Mike.

Rep. Bill Kidd said the MERC is statutorily required to designate the LEPDs. It is not the intent of the Commission, other than to provide authority to the MERC, to do so. We need to have those by giving MERC authority to proceed. Rep Kidd began to make a motion to state the Commission will give the MERC the ability to draw lines and designate. The intent is to allow local counties to have a say in that process and leave how it is done up to the MERC. The MERC will group together as they would like to be grouped. Be statutorily correct and not be in the weeds but facilitate the counties. He reiterated the intent to statutorily give authority to designate to the MERC. Lisa Cardone began to second when further discussion ensued asking why not many CEPF applications were received. The response was they are not applying, lack of quorum to vote, or incomplete applications as some of the reasons.

Rep Bill Kidd motioned to designate LEPC/Ds as statutorily required, give ability to so to the MERC with intent of not delegating but allowing opting in/out and to designate LEPDs as a group of counties or an individual county. Lisa Cardone seconded. Motion carried.

As stated earlier, Lisa Cardone asked what happens if they do not have their application in by the deadline? Both Mike and Sara discussed that we're going through everything to ensure they are compliant and that the application is finished. Aaron Schmidt asked regarding the groupings of LEPCs that the Commissioner be made aware of the counties responses and the response of the regions. Mike said once the groupings are put together, he will pass on to staff, the Commissioners and some regional coordinators for their views. Alan Cortvriert noted the regional coordinators may have insight/input. It was reiterated the use of real-world events as exercises if AARs are completed. We are getting some in at this time.

## Update on Regional MERC 101 Meetings

The last MERC 101 meeting was yesterday, July 27, 2022. The meetings have gone great and we've received good feedback. In the 2023 Central States Hazardous Materials Preparedness Conference, these courses will be offered during the conference in LEPC-centric breakouts. In 2024 we will be doing these again as a full-day regional symposium instead of the four-hour ones we've done this year.

## **New Business**

### EMD Exclusion Policy Repeal

Mike stated the EMD Exclusion Policy Repeal was a "no decision" from the Department of Public Safety Director Sandy Karsten. He asked if the Commission wants to go through the same process again this year. Chris Berndt would like to go through it and we currently have Presiding Commissioners as Chairs instead of EMD and that can also cause issues. Mike explained that Presiding Commissioners have no authority other than the LEPC Chair within the LEPC. There was discussion of the pros and cons of the exclusion and the consequences. Both Chris Berndt and Terry Cassil said we should not penalize everyone for one bad actor's transgression. MERC now has measures in place to stop the issues that were occurring prior to the exclusion.

Lisa Cardone made a motion to continue to repeal process. Cory Jorgensen seconded. Motion carried.

### Request for Legislative Changes

Requested legislative changes have been sent to DPS. The cap will be over \$1 million and we cannot spend enough money to be below \$1 million by March 1, 2023. Our estimate is our fund balance will be from \$1.5 million to \$2 million. Chris Berndt noted that Taney has contractor issues with HMEP. Mike explained the cap is with CEPF funds, not HMEP. Legislation is in the works to help deal with the cap. Mike stated the by statute in the year the Tier II is filed, the amount over \$1 million must be paid proportionally to those who have filed.

Our issue is the appropriation. We have more money than we are allowed to spend. Rep. Bill Kidd said there has to be a line item to be appropriated. Chris Berndt noted that it doesn't make sense to not have access to all funds. Per Mike, this is from the 1987 legislation. The MERC comes up for legislative review in 2024.

In the proposed legislative changes, Mike is asking for the position of MERC Executive Director to be defined under the Commission and DPS. He is asking for the cap to be removed. All changes requested are to help the MERC operate effectively.

SEMA Deputy Director Terry Cassil asked that the MERC show what happens when the cap is exceeded by a formula. Show equation by hand. Can we forgo fee? Forgoing fees is not allowed by legislation. Terry said to educate Nikol in SEMA fiscal about this. MERC staff reassured Terry that it has been shared with Nikol and will be again.

## OPEN

Chris Berndt wanted to talk about HMEP Instructor/Contractors. He doesn't want them simply selected on a laptop; they need to have more depth and be flexible on dates. Lisa Jobe explained that we have nine contractors and many have full-time jobs and cannot have as flexible a schedule as the LEPCs would want. She is looking for more instructors. Mike said we are working on it.

Chris also noted that after the Taney County LEPC meeting on Thursday, he received question on why quarterly reports are no more. Both Mike and Cory Jorgensen said the Commission decided on that at one of the meetings when Chris was out of the country. He also said he researched the counties having to have a standalone HazMat plan. He researched and found that it must be a comprehensive plan under EPCRA and talked about our checklist of requirements. Karen explained the requirements of a standalone HazMat plan are from the federal NRT1A EPCRA Section C plan provisions and lists the nine shell items required for a plan. Sara stated that many plans do not cover those nine areas. Mike said the LEPCs are required to produce a HazMat Response plan that deals with threats in the county, facilities in the counties and response/escape routes, etc.

MERC is building a new template to include underserved communities, ADA and ethnic groups. A discussion ensued regarding the misconception of plan preparation. Mike spoke to following the laws, rules and regulations and helping the LEPC/Ds. MERC is facing backlash. Mike is protective of his staff who are simply following the law as written. Lisa Cardone asked if letters have gone to the LEPC/Ds. Mike said yes, from both Director Remillard and Mike himself. Sara also noted that she revised the CEPF checklist.

The next MERC Commission meeting for the second quarter of state fiscal year (SFY) 2023 is Thursday, October 27, 2022 at 10 a.m.

Rep. Bill Kidd motioned for the meeting to adjourn. Lisa Cardona seconded the motion. Motion carried. Meeting adjourned at 12:28 p.m.

Respectfully submitted,

*Karla Marshall*

Karla Marshall