

NOTICE OF MEETING OF THE ARIZONA STATE EMERGENCY RESPONSE COMMISSION

Pursuant to A.R.S. 38-431.02, notice is hereby given to the members of the Arizona State Emergency Response Commission (AZSERC), Local Emergency Planning Committees, and to the general public that the AZSERC will hold a meeting open to the public via GoToMeeting AZSERC Open Meeting on

Tue, Oct 20, 2020 1:30 PM - 3:30 PM (MST)

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Notice of the meeting and the agenda will be posted on the ADEQ website, <http://www.azdeq.gov>. ADEQ is open to the public Monday through Friday from 8:00 A.M. to 5:00 P.M. except legal holidays. Copies of the Public Notice and Agenda may be requested by email at azserc@azdeq.gov or by calling 602-771-0397.

AGENDA

ARIZONA STATE EMERGENCY RESPONSE COMMISSION

TUESDAY, October 20, 2020

1:30 PM – 3:30 PM

1. **Call meeting to order**
2. **Establish quorum**
3. **Welcome and Introductions**.....Laura Malone, AZSERC Executive Director
 - a. Virtual Housekeeping
 - b. Approval of minutes 2/4/2020 AZSERC meeting – Action

- 4. **EXECUTIVE SESSION** – The Commission will enter into executive session pursuant to A.R.S. §38-431.03(A)(2) to receive and discuss information regarding HHFT which is confidential information pursuant to 49 CFR Part 1520.....Geoffrey McCormick

Roll Call – Reconvene in open session, establish quorum.....Laura Malone

- 5. **AZSERC Commission Vacant Positions**Laura Malone
 - a. **DEMA** (Wendy Smith-Reeves)
 - b. **DPS** (Colonel Frank Milstead)
 - c. Discussion/Action

6. **Call to SERC Members (Action Item Results)**

- A. **ACTION ITEM 1:** Action Item 1 –LEPCs to provide a list of LEPC voting members and group affiliation.**Michele Martinez**
 - a. Discussion – Action
 - b. LEPC Membership Applications - Action
- B. **ACTION ITEM 2:** Develop specific criteria (eliminate exceeds criteria) and a process for Commission/Staff to review LEPC’s emergency response plans. Include a timeline for each step of the process. Develop a standard work for emergency response plan review. Develop a summary/checklist for how the emergency response plans are performing include in the standard work. Present the summary/checklist to the SERC quarterly.**Chris Nutter**
- C. **ACTION ITEM 6:** Research the process of how SERCs in other states review LEPC’s emergency response plans.....**Chris Nutter**
 - a. Discussion - Action
- D. **ACTION ITEM 3:** Clarify the role of the Commission for reviewing emergency response plans. Research what the responsibility of the Commission is when the emergency response plans do not meet the required minimum criteria. Identify a corrective action process and time line.**Michele Martinez**

In accordance with A.R.S. § 49-125. **Comprehensive emergency response plans**

- The commission shall review the plan and make recommendations to the committee on revisions that may be necessary to ensure that it meets the requirements of this article or any rules adopted under this article.

- The commission shall endeavor to review each plan within a sixty day period and provide comments or recommendations for modifications within that period. The commission shall establish a period of time, not normally to exceed sixty days, for the committee to resubmit the emergency plan.
- CRITERIA:
 - E. Each emergency plan shall include provisions listed in section 303C of title III and, in addition, shall include:
 1. Identifying the heads of the emergency response organizations for designated areas or local governments in the district who shall make determinations necessary to implement the plan.
 2. A description of specialized equipment, facilities, personnel and emergency response organizations available in the district to respond to releases subject to this section.
 3. Mutual aid agreements with other districts, and the allocation of emergency response resources for responding to releases subject to this section, if applicable.

AND

R8-4-105. Local Emergency Response Plan

C. An LEPC shall submit a copy of the emergency response plan prepared under subsection (A) or (B) to the Commission. D. Within 60 days after the Commission receives a copy of an emergency response plan under subsection (C), the Commission staff shall: 1. Review the emergency response plan and make recommendations for revisions necessary to ensure that the emergency response plan complies with law and coordinates with the emergency response plans of adjoining emergency planning districts; and 2. Return the emergency response plan and recommendations to the LEPC. E. An LEPC shall ensure that the emergency response plan prepared under subsection (B) and reviewed and amended under subsection (D) is incorporated into the county's emergency operations plan in accordance with county procedures

Commission Staff Responsibility:

- If the Commission staff finds that the plan contains deficiencies, they shall provide their analysis/findings to the Commission. The Commission shall then review the findings, discuss and vote on how to proceed.
- The Commission may give direction to staff to allow the LEPC to make the changes. Should the LEPCs not comply within the allotted time given, the

Commission will then discuss and vote on how to proceed regarding the non-compliant LEPC.

a. Discussion - Action

E. ACTION ITEM 5: Research establishing subcommittees (AZSERC members) for review of emergency response plans. Identify what this might accomplish.**Michele Martinez**

The Commission may create subcommittees to review emergency response plans. The subcommittee may consist of one or more members of the Commission. The subcommittee may assign AZSERC staff to review the emergency response plans. Staff may then hold a meeting with the subcommittee member(s) to review their findings. They may need to set two meetings per year and should establish a time frame to meet the December deadline.

Note -The subcommittee itself is not subject to the Open Meeting Law unless more than one member of the Commission is on the subcommittee.

Option 1: The Commission may vote to assign one member of the Commission to a subcommittee. The Commission member could then meet with staff members to review emergency response plans, discuss findings and prepare recommendations for the Commission. This option **is not** subject to the Open Meeting Law. The subcommittee member will present the information to the Commission at the next regular meeting.

Option 2: The Commission may vote to assign more than one Commission member to the subcommittee. The subcommittee members may meet with staff to review emergency response plans, discuss findings and prepare recommendations. They may not vote or make any decisions on behalf of the Commission during these meetings. This option **is** subject to the Open Meeting Law. The subcommittee members will present the information to the Commission at the next regular meeting.

Option 3: The Executive Director may assign a specific member(s) of the Commission the task of researching how other states conduct reviews of ERPs. The member(s) would present their findings and make recommendations to the Commission as to how to proceed when reviewing the plans.

Option 4: The Executive Director may contact other SERC heads and find out how they conduct their emergency response plan reviews.

What establishing subcommittees would accomplish: The subcommittee assists in managing the workload of the Commission. Select members of the Commission (one or more) and AZSERC staff who are best able to accomplish the task as well as have expertise in emergency response plans would ensure compliance with A.R.S §49-125 E and AAC R8-4-105. The subcommittee would establish the ground work, provide findings and make thorough recommendations to the Commission.

The Commission has a responsibility to adhere to the statute and rule: According to A.R.S. §49-125 – **B. Comprehensive emergency response plans and AAC R8-4-105 Emergency Response Plan – D.** the Commission shall:

1. Review the plan and make recommendations to the committee on revisions that may be necessary to ensure that it meets the requirements of this article or any rules adopted under this article.
 2. The commission shall further ensure that the plan is coordinated with the emergency response plans of adjoining emergency planning districts as applicable.
 3. Within 60 days after the Commission receives a copy of an emergency response plan under subsection (C), Commission staff shall:
 - a. Review the emergency response plan and make recommendations for revisions necessary to ensure that the emergency response plan complies with law and coordinates with the emergency response plans of adjoining emergency planning districts; and
 - b. Return the emergency response plan and recommendations to the LEPCs.
- a. Discussion - Action

F. ACTION ITEM 7: Research if an LEPC is considered “not valid” due to lack of membership or does not meet the minimum group criteria as established in A.R.S. §49-124. Establish how the Commission should handle this situation.**Michele Martinez**

LEPCs must be in compliance with A.R.S. §49-124 B. and must have minimum representation from each of the groups or organizations identified.

If the LEPCs are not meeting the minimum requirements the Commission shall give written notification to the LEPC with a timeline to become compliant. If the LEPC cannot meet the timeline the Commission may use its authority under A.R.S. §49-124 D. *The commission, as it deems appropriate, may modify its designations of emergency planning districts or its appointments to the emergency planning committees.*

If the LEPCs find that there is no interest from specific group members or if there are LEPCs who are not participating in accordance with the provisions of A.R. S. Title 49, Chapter 1, Article 2 the Commission can remove the LEPC and merge it with another district. Some LEPC districts may be too small and a merger may be necessary.

The Executive Director may send out a letter to the LEPCs requesting they become compliant within a specific timeline. Or the Commission may put the LEPCs on the Agenda for the Commission to discuss and make recommendations, provide remedies or other options regarding those LEPCs who are not compliant with their membership and/or who are under performing.

Any process should be voted on by the Commission.

The statute references required group memberships that must be adhered to. The Commission has final authority if there is no other remedy proposed by the LEPCs even if there are no interested parties from the groups. The Commission has the authority to disband or reorganize the LEPCs. This action includes those LEPCs who are not active. Ultimately, the Commission has the authority to fire the LEPC. Once the Commission is informed of any LEPC that is underperforming it is the Commission's responsibility to determine how proceed.

- a. Review of proposed letter from AZSERC Executive Director
- b. Review of those LEPCs that are currently not in compliance
- c. Discussion - Action

G. ACTION ITEM 8: Follow up on LEPCs request for further clarification on LEPC questions to AZSERC Commission #'s 2, 3, 7, 8, and 10. See questions below:

2. If an LEPC member misses three meetings and are voted out of the LEPC, does the Commission need to affirm this action?

UPDATED answer: No. The Commission does not need to affirm this action. The Commission ratifies the primary voting member of each group only. There is no limit as to the number of members an LEPC can have in each group or on the LEPC, or the number of alternates for each group. It should be noted that to be in compliance with the Open Meeting Law a majority of the voting members or 50% plus 1 of the primary (or alternate) voting members is required to be present in person, by phone or video to establish a quorum.

3. Do the LEPCs need to make provisions for attendance voting members in the event a voting member is not present? Would the Commission "pre-approve" voting alternates?

Updated Answer: No. The primary voting member can designate an alternate. The alternate does not have to be the same one for every meeting, as long as the LEPC is given prior notification (preferably in writing) as to who will be present at the meeting on their behalf. The Commission does not have to approve alternate members. The notification can be done "last minute" under emergency circumstances. It is a matter of good record keeping to have the alternate notification in writing, or at least on the record in the meeting minutes. During roll call – verify a quorum has been established and identify any alternates to include name and title. This will serve as public record and complies with the Open Meeting Law.

7. Do the new changes outlined in A.R.S. §49-124 and A.R.S. §49-125 affect the LEPCs bylaws?

Updated Answer: Yes - The LEPC bylaws should reflect current A.R.S. Title 49, Chapter 1, Article 2 language. As well as memberships and quorum. The hierarchy follows as such: Statute, Rule, Bylaws. The Bylaws do not supersede the Rule or Statute.

8. What is the process for advising the Commission of new members, voted out members and providing emergency plans?

Updated answer: The process for new members has already been established. The process for emergency response plans will be resolved when the Commission votes on subcommittees or votes on a specific process. The information will be presented to the LEPCs once approved.

10. What are the “trigger” points regarding changes to an emergency plan? What determines which minor changes are and which are major changes?

Updated Answer: Any changes that have occurred (i.e. COVID-19), new chemical reporting requirements, new manufacturing/processing plants or businesses in the area, may trigger a change in emergency response plans.

It is good housekeeping for the LEPCs and the Commission to ensure that the emergency response plans are current as well as relevant. Make sure that the contact information for emergencies are up to date.

General approach for all Emergency Response Organizations is to prepare for a crisis or an emergency. This provides time for the organizations to think about them beforehand and determine how they would handle the crisis and how they should respond to the situation. It is important that this is routinely discussed.

- a. Discussion/Review

7. LEPC ReviewMichele Martinez Staff

- a. Discussion/Review

8. Trello BoardsArcangel Barragan

- a. Discussion/Review

9. ERU Training ModulesArcangel Barragan

- a. Discussion/Review

10. Future Agenda Items

11. Call to the Public



12. Proposed Date and Time of Next Meeting

13. Adjournment - Action

Note 1: ARS 38-431.01G Meetings shall be open to the public. A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. Members of the public are requested to limit their comments to no more than five minutes. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review the matter or may as that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

Note 2: Agenda items may be taken out of order.

Note 3: A copy of any material (agenda or other materials) may be requested by the public requires a records request through the ADEQ Records Center. Please go to <http://www.azdeq.gov/records-center> for further information.

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ADEQ tomará las medidas razonables para proveer acceso a los servicios del departamento a personas con capacidad limitada para hablar, escribir o entender inglés y / o para personas con discapacidades. Las solicitudes de servicios de interpretación de idiomas, interpretación ASL, subtítulos de CART, o adaptaciones por discapacidad deben realizarse con al menos 48 horas de anticipación contactando a Ian Bingham, Coordinador de Anti-Discriminación del Título VI al 602-771-4322 o Bingham.Ian@azdeq.gov. Los servicios de teleimpresores están disponibles llamando al 7-1-1 con al menos 48 horas de anticipación para hacer los arreglos necesarios.