



ARIZONA EMERGENCY RESPONSE COMMISSION MEETING SUMMARY
MINUTES – October 20, 2020

The Arizona State Emergency Response Commission convened via GoToMeeting. A quorum having been established and participating virtually, Ms. Laura Malone, Executive Director of the Commission, called the meeting to order at 1:31 p.m.

VOTING MEMBERS/DESIGNEES PRESENT VIRTUALLY

Laura Malone	AZSERC Executive Director AZDEQ (AZ Department of Environmental Quality)
Matt Heckard,	DEMA (AZ Department of Emergency and Military Affairs)
Cheryl Kennedy Bowen	AZDOHS (AZ Department of Homeland Security)
Tom Neve	AZDPS (AZ Department of Public Safety)
Brent Cain	AZDPS AZDOT (AZ Department of Transportation)
Dwayne Uhlig	AZDA (AZ Department of Agriculture)
Geoffrey McCormick	ACC (AZ Corporation Commission)
Bryce Rucker	AZICA (AZ Industrial Commission of Arizona)
Rob Biscoe	AFCA (AZ Fire Chiefs Association)
Theresa Ehnert	ADHS (AZ Department of Health Services)

COMMISSION MEMBERS ABSENT:

AZDFFM (AZ Department of Forestry & Fire Management)
ASMI (Arizona State Mine Inspector)

GUESTS

Jeff Cantrell AG (Attorney General’s Office)

STAFF PRESENT

Arcangel Barragan	ADEQ-ERU (AZ Department of Environmental Quality Emergency Response Unit) - Presenter
Michele Martinez	ADEQ-ERU (AZ Department of Environmental Quality Emergency Response Unit) - Presenter

Chris Nutter ADEQ-ERU (AZ Department of Environmental Quality Emergency Response Unit) - Presenter
Scot Havir ADEQ-ERU (AZ Department of Environmental Quality Emergency Response Unit)
Evelyn Kelly ADEQ (AZ Department of Environmental Quality)

2.-3 Introductions/Review Of Minutes

Ms. Laura Malone welcomed members and attendees. Ms. Malone noted a quorum of voting members participating virtually.

Ms. Malone requested that the Commissioners review the February 4, 2020 minutes and then called for a motion to accept the minutes.

Geoffrey McCormick offered the motion that was seconded by Brent Cain.

The motion carried 10/0/2 absent.

4. Executive Session

Ms. Malone called for a motion to enter into Executive Session pursuant to A.R.S. §38-431.03(A) (2) to receive and discuss information regarding High-Hazard Flammable Trains (HHFT) which is confidential information pursuant to 49 CFR Part 1520.

Geoffrey McCormick offered the motion that was seconded by Dwayne Uhlig.

The motion carried 10/0/2 absent.

Commission adjourned to Executive Session at 1:43 p.m. to receive the High-Hazard Flammable Trains (HHFT) materials and presentation from Geoffrey McCormick of the AAC which were confidential and include copies of those materials.

The Commission reconvened into open session at 2:12 p.m.

Roll Call

Ms. Malone noted a quorum of voting members participating virtually in open session at 2:12 p.m.

High-Hazard Flammable Trains (HHFT)

Discussion is held regarding how AZSERC will disseminate the HHFT information to the Local Emergency Planning Committees (LEPCs) Chairpersons and Fire Chiefs who need to know.

Ms. Malone called for a motion for AZSERC staff to establish a standard work for the dissemination of the HHFT confidential information; and to create a roster with Fire Chiefs and LEPC Chairpersons for each county.

Geoffrey McCormick offered the motion that was seconded by Matt Heckard.

The motion carried 10/0/2 absent.

5. AZSERC Vacant Positions

Discussion is held regarding the positions vacated by Director, Wendy Smith-Reeves with the Department of Emergency and Military Affairs (DEMA) and the position vacated by Director, Colonel Frank Milstead with the Department of Public Safety (DPS). Matt Heckard, with DEMA and Tom Neve, with DPS advised the Commission they will provide the contact information of the directors for their respective agencies who will replace the aforementioned Commission members.

No Action taken.

6. CALL TO SERC MEMBERS (ACTION ITEM RESULTS)

A. Action Item 1 Result- LEPCs to provide a list of LEPC voting members and group affiliation: Michele Martinez, ADEQ-ERU presented a summary list of LEPC voting members with their group affiliation and a summary list of Local Emergency Planning Committee (LEPC) membership applications to the Commission.

Ms. Malone requested that the Commissioners review the list of membership applications as presented and then called for a motion to ratify the membership applications.

Rob Bisco offered the motion that was seconded by Tom Neve.

The motion carried 10/0/2 absent.

Ms. Malone noted for the record Item 6. F Action Item 7 will be taken out of order on the agenda. Hearing no objections. Michele Martinez presents Action Item 7.

F. Action Item 7 Result – 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:

Ms. Martinez presented the findings of her research regarding Local Emergency Planning Committees (LEPCs) required to be in compliance with Arizona Revised Statute (A.R.S.) §49-124. Ms. Martinez presented a summary of the 15 LEPCs who currently do not have representation by specific groups outlined in statute; presented a process and plan for the Arizona State Emergency Response Commission (AZSERC) to assist the LEPCs that are not in compliance; and presented a proposed letter from the AZSERC Executive Director, Laura Malone, to be sent on behalf of the LEPCs encouraging participation and the benefits of joining.

Discussion is held. No action taken.

- B. Action Item 2 Result – Develop specific criteria (eliminate exceeds criteria) and a process for Commission/Staff to review LEPCs 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 to be included in the standard work. Present the summary/checklist to the SERC quarterly:** Chris Nutter, ADEQ-ERU presented the specific criteria AZSERC staff uses when reviewing Emergency Response Plans (ERPs), the Emergency Response Plan form and standard work.

Discussion is held.

Ms. Malone called for a motion to approve the standard work for reviewing LEPC's Emergency Response Plans and the Emergency Response Plan form as presented. Geoffrey McCormick offered the motion that was seconded by Matt Heckard.

The motion carried 10/0/2 absent.

- C. Action Item 6 Result:** Mr. Nutter presented the process of how SERCs in other states review the LEPC's emergency response plans, specifically the State of Oklahoma.

Discussion is held. No action taken.

- D. Action Item 3 Result: 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 timeline.** Michele Martinez presented the roles and responsibilities of the Commission when reviewing Emergency Response Plans submitted by the LEPCs.

Ms. Malone called for a motion to allow AZSERC staff continue to review the LEPC's Emergency Response Plans on behalf of the Commission and allow the LEPCs to make any changes or recommendations provide by staff. Should there be any discrepancies staff shall provide the findings to the Commission for review and action.

Matt Heckard offered the motion that was seconded by Dwayne Uhlig.

The motion carried 10/0/2 absent.

- E. Action Item 5 Result: Research establishing subcommittees (AZSERC members) for review of emergency response plans. Identify what this might accomplish.**

Michele Martinez presents her findings to the Commission.

Discussion is held. No action. This action is deemed moot due to the vote under 6.D Action Item 3.

F. Moved on the Agenda to be heard after 6.A.

G. Action Item 8 Result: Follow up on LEPCs request for further clarification on LEPC questions to AZSERC Commission #'s 2, 3, 7, 8, and 10. Michele Martinez presents the following information to the Commission:

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.

No discussion. No action.

7. LEPC Review:

Michele Martinez provided the Commission with updates on the following:

- a. LEPC bylaw updates on quorums and replacing Title 26 with Title 49
- b. Working with five LEPCs and one Tribe on a regional commodity flow study for Highway 260.
- c. Discussed some of the issues Gila County faced during their commodity flow study for Highway 60.
- d. Working with Arizona Department of Public Service to assist LEPCs with their emergency response plans regarding hazardous materials in their respective counties.

- e. Started outreach to rural fire departments to provide opportunities and funding through HMEP funds to allow for hazmat training and to attend conferences.
- f. Award letters for the Emergency Response fund were sent to the LEPCs on 10/19/2020.
- g. Award letters for the FY2021 Hazardous Material Emergency Preparedness (HMEP) grant were sent to the LEPCs on 10/1/2020.
- h. Notification of unused funds from the FY2020 HMEP grant to be utilized beginning 10/1/2020 were sent to the LEPCs.

8. Trello Boards:

Arcangel Barragan gave a presentation on the use of Trello Boards to track LEPC meetings and who from AZSERC/ERU staff attends the meetings. It is an easy tool to reference agendas, minutes and a quick overview of LEPC compliance.

9. ERU Training Modules:

Arcangel Barragan gave a presentation on the virtual training module program the team will be implementing in January 2021. The trainings will be available to LEPCs and first responders. Each training module will be an hour in length. One training module will be presented twice a month.

10. Future Agenda Items:

Action Item 1 – AZSERC staff to establish a standard work to include instructions on how to disseminate HHFT confidential information to affected LEPC Chairpersons and Fire Department Chiefs.

Action Item 2 – AZSERC staff to develop a roster for the Commission of LEPC Chairpersons and Fire Department Chiefs.

Additional items for the agenda may be emailed to Michele Martinez.

11. CALL TO THE PUBLIC

None.

Laura Malone announced the LEPC Workshop scheduled for 10/21/2020.



12. PROPOSED DATE AND TIME OF NEXT MEETING

A doodle poll will be sent to the Commission for a proposed meeting in six months.

13. ADJOURNMENT

There being no further business, Ms. Malone called for a motion to adjourn.

Geoffrey McCormick offered the motion that was seconded by Bryce Rucker.

The motion carried 10/0/2 absent.

Meeting adjourned at 3:17 p.m.

Minutes approved 5/25/2021 with the following changes:

Brent Cain asked that the acronym be changed from AZDPS to AZDOT.