

The audio recording for this meeting is available on the South Dakota Boards and Commissions Portal at <http://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=36>

Minutes of the
South Dakota Emergency Response Commission Meeting
Conducted via the Digital Dakota Network

State Capitol Building
Pierre, SD

Department of Transportation
Brookings, SD

Rapid City/Pennington County Emergency Management
Rapid City, SD

Mitchell Technical Institute
Mitchell, SD

March 25, 2019
10:00 a.m. Central Time

COMMISSION MEMBERS PRESENT: Robert McGrath, Paul Merriman, Becky Pitz, Patrick Snyder, Tina Titze, Mike Carter, Dustin Willett, Kim McIntosh, Jason Humphrey. Andrew Canham participated via telephone.

COMMISSION MEMBERS ABSENT: None.

PRESENT VIA TELEPHONE CONFERENCE CALL: Lori Reed and Bre Bockstahler, EPA Region 8.

OTHERS PRESENT: See attached attendance sheets.

INTRODUCTIONS: Participants at the DDN sites introduced themselves.

CALL TO ORDER AND ROLL CALL: Chairman McGrath called the meeting to order. The roll was called, and a quorum was present.

Chairman McGrath announced that the meeting was streaming live on SD.net, a service of South Dakota Public Broadcasting.

APPROVAL OF MINUTES FROM DECEMBER 17, 2018, MEETING: Motion by McIntosh, seconded by Titze, to approve the minutes from the December 17, 2018, State Emergency Response Commission meeting. A roll call vote was taken, and the motion carried unanimously.

FEDERAL UPDATES: Lori Reed, EPA Region 8, provided information on the following:

State Emergency Response Commission
March 25, 2019, Meeting Minutes

- America's Water Infrastructure Act (AWIA), which requires certain community drinking water systems to develop or update risk assessments and emergency response plans. AWIA also requires the SERC to notify the state drinking water agency of releases of hazardous substances and other extremely hazardous substances. The state drinking water agency must in turn notice community water systems potentially affected by the release. AWIA also authorizes community water system operators to request that the SERC provide information on hazardous chemicals at facilities.
- Chemical Facility Security and Safety National Working Group have oversight of chemical facility security and safety. To address security and safety at chemical facilities, the Department of Labor, Department of Homeland Security, and the Environmental Protection Agency created and signed a Chemical Facility Security and Safety Working Group Charter.
- The National Association of SARA Title III Program Officials (NASTTPO) 2019 annual workshop and training to be held May 6-9, 2019, in Reno, Nevada. The annual SERC conference was cancelled but many of the issues to be discussed will be covered at the NATTPO conference.
- April 30, 2019, RMP eSubmit webinar, which will cover the basics of updating, certifying, and submitting Risk Management Plans (RMPs) to EPA through the RMP eSubmit software.
- OSHA Citation Sharing – OSHA will be sharing information about chemical hazards identified at facilities OSHA is citing.

FAST (Fixing America's Surface Transportation) ACT: Ms. Reed discussed the Federal Motor Carrier Safety Administration (FMCSA) working with the Federal Railroad Administration to issue a rule to revise and clarify the FAST Act rule for comprehensive oil spill response plans. The rule requires railroads to share information involving not just crude oil, but high hazard flammable train operations. The notification requirement insures that SERCs, TERCs, and other appropriate agencies will routinely receive and share non-sensitive information from rail carriers regarding the movement of the high hazard oil in their jurisdictions that can aid local emergency responders and law enforcement in emergency preparedness and community awareness.

Bre Bockstahler, EPA Region 8, discussed the proposal to revise the definition of waters of the United States to clarify federal authority under the Clean Water Act. The proposed revision is in the comment period at this time, which is open until April 15, 2019.

Mr. Bockstahler noted that the Emergency Planning and Community Right-to-Know Act (EPCRA) enforcement group has offered to give presentations to any SERC or LEPC that requests information.

Kim McIntosh stated that DENR has been complying with the requirements of America's Waters Infrastructure Act. She noted that staff may do some outreach to let water systems know that the Tier II data is available.

Regarding the OSHA citation-sharing issue, Ms. McIntosh stated that staff has been in contact with OSHA to ensure that OSHA will share the citation information with the department.

Ms. McIntosh stated that hopefully the proposed FAST Act rule will keep Burlington Northern Railroad from threatening to sue the department for disclosing the information that they have been stamping as confidential before providing to the department.

Ms. McIntosh said that the waters of the state rule revisions may affect the SERC in that if there is a release to a body of water that is not considered waters of the U.S., that release may not be covered under the oil pollution act, and therefore, may not receive assistance from federal funding if there is a release where there is no responsible party that respond to it or if it's a major release. Ms. McIntosh said this rule has impacts on many different people, and the department will be watching to see how it plays out and how it may or may not change EPA's reaction or response to a major oil spill.

2019 BLIZZARD-FLOOD: Tina Titze, director for the Office of Emergency Management, reported on the impacts of the March 12-14 major snowstorm. The Governor declared an emergency on March 15, and the State Emergency Operations Center continues to be open with staff assisting numerous counties in the southeast and south central parts of the state as well as Ogalala Lakota County.

TIER II REPORT SUBMITTALS: Kelsey Newling reported that Tier II reports are reports that facilities storing hazardous substances are required to file on an annual basis. The reporting threshold for most substances is 10,000 pounds, but the threshold is lower for certain extremely hazardous substances. The reason for reporting is to insure that planners, responders, and the general public know what is stored in the local community. The Tier II reporting deadline was March 1, 2019. The majority of the facilities submit their reports by the deadline, but the department continues to receive reports submitted by late filers.

To date, 1,707 facilities have submitted reports, and there are still a number of facilities yet to submit their report. Staff will be contacting those facilities and reminding them to submit their report.

Summarized Tier II data is available online to the public. Detailed data, including copies of the reports, is available to planners and first responders via a password-protected website.

Ms. Newling stated that at the beginning of May 2019, the department would begin receiving TRI reports. Ms. Newling will update on those reports at the June 24, 2019, SERC meeting.

INDUSTRY WORKSHOPS: Ms. Newling reported that eight chemical and oil industry safety and compliance workshops have been scheduled for the week of August 19, 2019. The four morning workshop potential topics will include Spill/Release reporting requirements, Tier II reporting requirements, Risk Management Program (RMP) plans, Toxic Release Inventory (TRI) reporting requirements, OSHA worker safety topics, tank regulations and requirements, storm water industrial permits, air quality permits, and Department of Agriculture regulations. Attendees will be asked to pre-register, and workshops are planned in Mitchell, Aberdeen, Pierre, and Rapid City. Ms. Newling noted that potential speakers will be from EPA, the

department of Agriculture, DENR, and OSHA. Flyers advertising the workshops will be sent to agriculture retailers, Petroleum and Propane Marketers Association, Tier II facilities, the RCRA facilities, TRI facilities, and Emergency Managers.

LEPC ROSTER REVIEW/APPOINTMENTS: Ms. Newling reported that in South Dakota there are 60 designated LEPCs, some of which are multi-county districts. This year rosters were received from 54 LEPCs. The rosters were sent to the SERC members for review prior to the meeting. Ms. Newling recommended the rosters be approved.

Mellette and Edmunds LEPCs intend to submit rosters at a later date. The rosters will be presented to the SERC for consideration at the June SERC meeting.

Haakon, Jackson, Oglala Lakota, and Sanborn LEPCs are not active and have not submitted rosters.

Ms. Newling requested that the SERC appoint the county commission, state's attorney, emergency manager, and county sheriff to serve as the LEPC for Haakon, Jackson, Oglala Lakota, and Sanborn counties.

Chairman McGrath is the vice chair of the Brookings County LEPC. Dustin Willett is the secretary/treasurer of the Pennington County LEPC. Mike Carter and Becky Pitz are included on the rosters for Custer County LEPC and Davison County LEPC, respectively. Ms. Newling suggested that the SERC vote on those four rosters separately from the other 50 rosters.

Motion by Willett, seconded by Pitz, to approve the LEPC rosters, with the exception of Brookings, Pennington, Custer, and Davison LEPCs. A roll call vote was taken, and the motion carried with Canham, Snyder, Titze, Merriman, Humphrey, and McIntosh voting aye. Willett, Carter, Pitz, and McGrath abstained from voting.

Motion by Titze, seconded by Snyder, to approve the LEPC rosters for Brookings, Pennington, Custer, and Davison LEPCs. A roll call vote was taken, and the motion carried unanimously.

Motion by Carter, seconded by Merriman, to authorize Chairman McGrath to send a letter appointing the county commission, state's attorney, emergency manager, and county sheriff, to serve as the LEPC for Haakon, Jackson, Oglala Lakota, and Sanborn counties. The appointment is effective until such time as a roster has been submitted and accepted by the SERC. A roll call vote was taken, and the motion carried unanimously.

LEGISLATIVE UPDATE: Ms. Kindt and Ms. Titze provided an update on 2019 legislation of interest to the SERC.

SERC CONFERENCE UPDATE: Ms. Newling reported that due to the government shutdown, the Western States SERC conference that Mr. Willet was scheduled to attend was cancelled.

FAST ACT: This item was discussed by Lori Reed earlier in the meeting. Ms. Reed noted that she would like the department to let her know if the SERC hears from the railroads regarding the FAST Act.

