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Minutes of the
South Dakota Emergency Response Commission Meeting
Conducted via Digital Dakota Network
Matthew Training Center, Joe Foss Building, Pierre, SD

March 28th, 2023
10:00 AM Central Time

COMMISSION MEMBERS PRESENT: Chairman Dustin Willett, Vice Chairman Paul Merriman, Trish Kindt, Dave Ackerman, Doug Hinkle, Becky Pitz, Sean Kruger

COMMISSION MEMBERS ABSENT: Tina Titze, Jason Humphrey, Paul Merriman, Kaitlin Thomas, Andrew Canham

OTHERS PRESENT: Rhett Howard, OEM, Jon Groen, SD DHS, Kelsey Newling, SD DANR, Bre Bockstahler, EPA Region 8, Craig Conway, CISA, Matt Mitrovich, CISA, Ben Sharaf, EPA Region, Doug Hinkle, Jason Bauder, Office of Emergency Management, Jeremy Siembida, PHMSA, Dan Richards, PHMSA

INTRODUCTIONS: Participants introduced themselves

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

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

APPROVAL OF DECEMBER 20, 2022, SERC MEETING MINUTES: Motion by Becky Pitz, second by Trish Kindt to approve the minutes from the December 20th, 2022, State Emergency Response Commission meeting. A roll call vote was taken, and the motion carried unanimously.

MOTION TO MOVE AGENDA ITEM 5 to 4: Motion by Dave Ackerman, second from Jason Bauder to discuss the LEPC grants because Trish Kindt had to leave. A roll call vote was taken, and the motion passed unanimously.

Kelsey Newling announced that there currently is enough to vote for majority of the LEPC rosters, but not enough to vote on rosters with members abstaining from their LEPC Rosters. The decision was made to pull out Pennington, Davison, and McPherson, and vote on the other counties.

LEPC ROSTER REVIEW /APPOINTMENTS – KELSEY NEWLING, DANR: Kelsey Newling stated that 9 LEPC's did not submit rosters. Those counties are Aurora, Haakon, Jackson, Jerauld, Lyman, Oglala Lakota, Sanborn, Todd, and Union. These counties are not very active and a few of them have gone inactive since last year. That is mostly because they cannot generate enough interest in the county to have meetings. Hughes/Stamley and Hyde are reorganizing and asked that we give them more time to get their rosters in for our June meeting. One County is submitting but just have not gotten it to us yet. That county is Mellette, and their roster will need to be approved at our June meeting.

Kelsey Newling asked that the SERC do 3 things:

- 1) Review the 48 LEPC rosters provided, and vote either to approve, revise, or deny the LEPC membership rosters as submitted. Dustin Becky and Dave will need to abstain from approving their rosters and we will need separate votes.
- 2) Vote on waiting for the other 3 counties Hughes/Stamley, Hyde, and Mellette to approve at our June meeting.
- 3) Finally, when it comes to the counties that have told us they don't have LEPC's (Aurora, Haakon, Jackson, Jerauld, Lyman, Oglala Lakota, Sanborn, Todd, and Union), Kelsey asks that the SERC consider appointing individuals to serve as the LEPC.

Motion by Dave Ackerman to approve waiting for the Hughes/Stamley, Hyde, and Mellette until the next June meeting. It was second by Jason Bauder. A roll call vote was taken, and the motion passed unanimously.

In the past, the SERC has named the Emergency Manager, States Attorney, Sheriff, and County Commission to serve as the LEPC. The Chair of the County Commission will be designated the chair of the appointed LEPC. Doug Hinkle made the motion to appoint these positions to serve as the LEPC. Dave Ackerman seconded. A roll call vote was taken, and the motion passed unanimously.

Jason Bauder made a motion to accept and approve the rest of the rosters. It was seconded by Doug Hinkle. A roll call vote was taken, and the motion passed unanimously.

FEDERAL UPDATES:

Bre Bockstahler with EPA gave an update thanking everyone who attended the western regions conference attendance. Next years will be in person in Clark County, Las Vegas, Nevada, January 23 - 25th. The NASTTPO conference is coming up in Salt Lake City, Utah, April 17-20th. The Quarterly newsletter went out this past Friday, with a section discussing the spill in East Palestine. There are no current updates on the regulatory side. RMP proposal remains the same, upcoming dates for emergency planning, no further updates. Finally, the Regional Response Team is meeting on April 11 and will have a virtual option.

Kelsey Newling announced that workshops would be held the week of July 17. Tentative locations are Aberdeen, Brookings, Yankton, and Rapid City. She stated that she does plan to have OSHA present at the workshops.

Jeremy Siembida from PHMSA was introduced by Chairman Dustin Willett

Dan Richards, PHMSA, provided updates regarding achemical safety webinars, lithium battery webinars, and announced a focus on tribal communities and emergency response, helping them with their needs, and or grants information. PHMSA is prepared to do presentations for emergency response or grants whatever is needed. They have a lot of new openings for investigators.

Matt with CISA had no updates from the last meeting.

Chairman Dustin Willett asked if there are any other federal partners that joined in the call. No one else joined the group. Chairman Dustin Willet opened up questions for federal partners. Hearing none, he thanked our federal partners.

REGIONAL HAZ MAT TEAM UPDATE – SOUTH DAKOTA OFFICE OF HOMELAND SECURITY:

Jon Groen was not present during the meeting, report given by Kelsey Newling. No new information on the Haz Mat Team other than they are busy doing training

HMEP GRANTS, TRAINING AND PLANNING REPORT – OEM:

Rhett Howard, OEM, stated there is not a whole lot to report HMEP 22. It is a 3-year grant cycle. There have been three requests from Codington County, that totaled \$4500 dollars. Applications were submitted to PHMSA, by Aberdeen Fire Rescue, Rapid City Fire Rescue, Sioux Falls Fire Rescue, Watertown Fire Rescue, and 5 different counties. OEM hopes to hear back by August.

TIER II REPORT SUBMITTALS – KELSEY NEWLING:

Kelsey Newling updated members, on Tier II report are reports facilities that store 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 substances.

The reason facilities are supposed to report, is to ensure planners, responder, and the general public know what is stored in the local community.

The Tier II reporting deadline was March 1, 2023. This year it seemed like it was pretty steady for reports coming in since the first of the year. Every year we are seeing less and less paper reports and I am working very hard on pushing facilities to report online. When they do make the switch, they are finding the reporting online to be easier than paper reports. As of today, we have received reports from 1,719 facilities. There are still a number of facilities that have not submitted their reports. We are in the process of contacting those facilities and reminding them to get their reports in as the reporting deadline has passed.

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

Beginning in May, we will begin receiving Toxic Release Inventory (TRI) reports. Kelsey Newling will talk more about the TRI reports at the June SERC meeting.

LEGISLATIVE UPDATE – TRISH KINDT, DANR:

Trish Kindt had to step out and the report was provided by Kelsey Newling. Legislative update: The last day of session was yesterday, and a handful of bills involved SERC related issues. If you want more information the bills please reach out to Trish or see the legislative webpage, SDlegislature.gov

SB 17 was a bill to make appropriations for water and environmental purposes. There is a version of this bill every year because this is how funds are appropriated for the water development project grants & loans awarded by the Board of Water and Natural Resources. This bill added a couple of water resources projects to the list of projects considered important to the general welfare of the citizens of the state. The 2 new projects are Water Investment in Northern South Dakota project; and the Western Dakota Regional Water System study.

Other projects already considered important to the general welfare are: (1) Belle Fourche irrigation upgrade project; (2) Big Sioux flood control study; (3) Hydrology and water management studies, to manage and protect state water resources for current and future generations; (4) Cendak irrigation project; (5) Gregory County pumped storage site; (6) Lake Andes-Wagner/Marty II irrigation unit; (7) Lewis and Clark rural water system; (8) Sioux Falls flood control project; (9) Vermillion basin flood control project. The bill also provided a little over 22.3 million in grant and loan funds for various water projects across the state. The bill was passed and was by Governor Noem on March 15.

SB 18 was An Act to revise the appropriation for a livestock and equestrian complex at the State Fair. The bill did just that – it authorized and appropriated funds for construction of the Dakota Events Complex (DEX) at Huron. As we all know, inflation is causing the cost of everything to go up. The bill was passed and was signed by Governor Noem on March 19.

SB 20 authorizes the awarding of de-obligated grants in accordance with policies of the Board of Water and Natural Resources.

Essentially if funds were awarded to a particular system or municipality, but they end up not needing the funds, the Board of Water and Natural Resources can award those funds to another system or municipality. The bill was passed and was signed by Governor Noem on March 6

SB 92 required that certain operations obtain their own general or individual water pollution permits. This bill requires businesses that process manure or wastewater, to be permitted. An example of a business that processes manure is digester that produces biogas (methane, carbon dioxide, and hydrogen sulfide) from manure. The bill was passed and was signed by Governor Noem on February 27.

HB 1127 was An Act to make an appropriation to support volunteer fire departments. The bill appropriated \$5,000,000 to the Department of Public Safety, for the purpose of providing grants to support volunteer fire departments in this state. It looks to me like the funding is for purchase of PPE and it looks like a departments can be considered voluntary if at least 70 % of the firefighters are unpaid volunteers. the bill was passed and was signed by Governor Noem on March 16

HB 1209 was An Act to revise provisions regarding industrial hemp. The bill did a few things but the main point was that it proposed raising the maximum allowable limit of THC (delta-9 tetrahydrocannabinol) in intermediate hemp products from 1% up to 5% THC. This Bill was delivered to

the governor on March 6, 2023 and was vetoed by the governor. Yesterday was the last legislative day. The legislature failed to overturn the governor's veto.

HB 1239 prohibited a ban of fuel gas appliances used by consumers. The bill did just that – it said “no local ordinance or regulation may prohibit the use, production, manufacture, or transport of fuel gas appliances within the state.” This Bill was signed by the Governor on March 14, 2022. PUBLIC COMMENT PERIOD:

Chairman Dustin Willett opened the floor for public comment. No comments were made.

OTHER BUSINESS:

Chairman Dustin Willett reported that there is a PFAS town hall meeting tonight in Pennington County.

In regard to the High Hazard Flammable Train updates, some questions have come up for accessibility for smaller regional rail lines in terms of hazardous cargo and getting that information. SERC may need to answer those questions to those LEPCs outside of the HHFT report.

Information for LEPCs to function at county level, may have training and education at EM conference e to house some of that training and information in WebEOC.

Kelsey Newling added that Andrew Fox with DANR will be at the town hall, at 4:00 PM,

Burlington Northern sent out another High Hazard Flammability Train update and Kelsey will send out when done with the meeting.

last comment is next SERC meeting is June 27th 10:00AM Central time.

Chairman Dustin Willett entertained a motion to adjourn. David Ackerman made the motion, seconded by Sean Kruger. A roll call vote was taken, and the vote was unanimous