

RHODE ISLAND STATE EMERGENCY RESPONSE COMMISSION

APRIL 3, 2012

RHODE ISLAND EMERGENCY MANAGEMENT AGENCY

645 NEW LONDON AVENUE

CRANSTON, RI 02920

APRIL 2, 2012 10:00am

Called to order by Chairperson: Theresa Murray @ 9:04 am

Attendees:

Theresa C. Murray-Chair

Paul D'Abbraccio-RIEMA

Jim Gumbley-RIEMA

Chief Fred Stanley-RIAFC

Steven Preston-LEPC-I

ES Coutalakis-LEPC-4

Chief Kevin Quinn-LEPC-4-Chair

Gina Friedman-RI DEM

James Larisa-DLT

Chief David DiMaio-LEPC-3

Jim Gaffey-EPA

Jim Ball-RI DEM

Chief Michael Dillon-LEPC-2

Edward W. Johnson-RIEMA

Bob Vanderslice-RI DOH

Dawn Lewis-HARI

Joseph Arsenault-RIAEM

Chief Leo Messier-RIPCA

Richard James-RISFMO

Jeff Stevens-RI DOH

Chief Michael Carey-LEPC-5

Old Business:

Letters to the Schools

Paul D'Abbraccio:

Mr. D'Abbraccio formulated and mailed a signature page requesting confirmation of the proper spelling of the designated signatories. He received many responses but not all and therefore passed a sheet

around the table and asked attendees to fill in correct spellings, if known, and get the information back to him.

The Chair delayed comments on the letter until later in the meeting.

Discussion: New By-Laws.

Verbiage correction: EMA Director's Association is incorrect. The proper title is The Rhode Island Association of Emergency Managers.

A member of the Committee asked Mr. D'Abbraccio if he had incorporated changes the member had proposed. Mr. D'Abbraccio said he did not because he questioned if the Committee really wanted to have plans filed with SERC be placed on file with the individual LEPC and the Department of Labor and Training. Mr. D'Abbraccio then read text from the proposed By-Laws as follows:

Requirement for Planning: All facilities that have extremely hazardous substances in inventory exceeding the threshold planning quantity indicated on PPA Title 3 and list of EHS hazardous emergency response plans with the SERC, appropriate LEPC and local fire departments and the plan must be completed on the approved LEPC template. Initial review by the LEPC and local emergency planning committee shall do an initial review of the facility emergency response plan to see if it has met the criteria outlined of the approved LEPC. RIEMA will review the plans at the request of the LEPC or the facility regarding the content.

Mr. D'Abbraccio questioned whether the RIEMA should review all plans. However, it was felt by several members of the Committee that the planning committee would have the personnel and capability of reviewing all plans. Regional planners are already assisting several of the LEPCs

Chairwoman Murray: The regional planners are actually helping some of the LEPCs, right? So they are already playing a role in that so it wouldn't hurt to have a committee review...

Under governing regulations the plans are confidential because they contain very detailed information on the vulnerabilities, quantities and exact storage locations and mitigation tactics for the facility. It is something that would be kept separate. The LEPCs and their chairs will coordinate the review and storage of the plans because of the sensitive nature of their content.

Certification at the facility emergency response plan validation exercises: facilities which must (?) emergency response plan are required to certify that the plan has been reviewed and exercised annually. The certification is to include the date of the exercise, the level of the exercise, whether that be tabletop, functional, full scale, drill and the scenario used. The plan element is tested and the number of participants in the evaluation of the exercise (satisfactory, unsatisfactory) performance of the plan to the needs of the response.

My question here is: if we're doing the plan and the, exercise do we need to add compliance to our exercise standards ?

Steve Preston: This language is mimicking Maine's and other New England states and it is also meeting the requirements set forth in the statute 40 CFR 5. For the district exercise, or the facility plans, you don't have to meet HC requirements. It's not part of the statute that I'm aware of. But if this body wanted to make that adjustment, it could.

D'Abbraccio: quite often when we have an exercise there's a dual purpose behind it. And if somebody needs to push that block off for fire department or hazmat team it's to get particular exercises under their belt and they have to comply with HC. That was my only concern.

I think it would be a good idea to adjust it and say it would meet the H requirements as necessary because I feel that if it's meeting the HC requirements it would also open up some homeland security dollars to fund those exercises. We have done that in the past and the last one we did for Providence was an HC exercise that used LEPC monies and homeland security exercise money. The two worked well together. Probably out of the five LEPCs we should pick one LEPC a year to do an HC exercise...1, 2, 3, 4, 5....every five years you would do it.

Preston: And each chair is required by federal statute to review the plan annually.

Chairwoman Murray-On May 2nd, they're doing the state exercise planning workshop, so if any of you can attend to represent this group, you might want to incorporate or suggest that they incorporate those state planning exercises that we have for next year.

That may help some of the funding issues as well. D'Abbraccio: we're going to add this to the By-Laws.

Chairwoman Murray: I wanted to take a vote on these by-laws at this meeting but if there are any other changes let's try to get them in before the next meeting so that we can finalize this. Make sure the next product is a finished product.

Planning Committee Report

No report.

Training Committee Report

Preston: we met last month and had three requests for training. They were all approved. The training subcommittee has been around for years. We used to have people from the Department of Transportation sit on it and those people are slowly attending. The role of the LEPC chairs on the training committee is to ensure the classes being requested meet guidance. I read some of the

comments Mr. White made and I disagree with some of those and sent him a letter to that fact. I think ultimately the state ethics commission was going to make the final ruling on this. We're very close to running out of money. The committee is asking nif RIEMA is going to retain the 25% and if not, hopefully we would get that 25% put back into the training allocation because we're really using up the money.

Discussion about advertising for qualified minority instructors.

Chairwoman Murray: I just want to make sure we clear the air on these fund issues. The question is the conference in Maine (Thursday and Friday) and I thought we had resolved it. The Conference is this week in Maine and I don't know if we have funding available to send some of the representatives. The planning grant money yet to be received will pay for that conference. A decision has been made that a contractor will not be hired to administer these funds.

We meet again on April 21st.

D'Abbraccio: Director Murray sent a letter to Washington, and a copy of that letter and the reply was sent out to the LEPC chairs. For the rest of the Committee the Director asked Mr. White who is the training grants specialist at DOT and told him that the State of Rhode Island is seeking assistance regarding the hazmat explosive pipeline grant

program. I have reviewed the grant and have several questions concerning execution of the plan and the training money. SERC is broken down into five LEPCs, each of which has a chair. There is a planning subcommittee that meets monthly which is mostly attended by LEPC chairs. The chairs have passed a grant for planning funds to be used for their time which is not compensated by other means. There's an understanding that this could be a conflict. The LEPC chairs argue that paying for their time is allowable under the term "technical staff to support the planning effort." There is our understanding the LEPC costs are not allowable expenses for the program. The question is: please advise whether paying the LEPC chair for his or her planning effort is an allowable cost. LEPC chairs sometimes hire contractors to do planning work to work through the grant funds. If an LEPC chair is qualified to perform the scope of work, may another LEPC chair hire him or her to do the contractual work? For example, if LEPC chair #1 wants to use the grant to hire the LEPC #2 chair to do the scope of the work and pay LEPC chair for performing that work is this an allowable expense?

Training: The state awards a training grant for the state fire academy. The fire academy schedules and hires trainers as contractors to do the training at the behest of the SERC training committee which is comprised of the five LEPCs. Those individuals who are authorizing the training are sometimes compensated to teaching the training. Is this an acceptable practice under grant guidance? The grant program calls for taking affirmative steps to recruit minority and women

contractors. If the RI Fire Academy cannot provide documentation to substantiate their efforts to meet this requirements does the deficiency that should result in the withholding of funds make the Fire Academy ineligible for the grant?

A reply came back and was sent to Ricky from Andre White:

Thank you for your patience. Here are the responses to your inquiry.

#1: Paying the LEPC chair for planning efforts is unallowable. The request suggests a conflict of interest.

#2: LEPC chair performing work as a contractor – unallowable. The request suggests a conflict of interest.

#3. LEPC chairs performing work as a contractor for the State Fire Academy is unallowable. This suggests a conflict of interest.

#4: If the Fire Academy cannot provide documentation to substantiate their efforts to recruit minority and women contractors then the entity is ineligible to be a recipient.

If you have any further questions, let me know.

Signed, Andre White

D'Abbraccio: years ago we were teaching law enforcement officers the subject of affirmative action. The complaint came from the Governor's Office so we had to act quickly on it. Our method of resolving it was doing what the state marshals do to hire constables to serve court papers. It goes on the state purchasing website which gives them an hourly rate. Minorities and women are encouraged to apply. The process met the requirements. In the end I had the same instructors teaching the class because we just didn't get any qualified responders.

Chairwoman Murray: They had documentation showing the effort was made, much to the point that Steve has referenced earlier. Two years ago that academy was told that they had to do that and it never happened and that's where we are at now. So we're just making sure that things are being done properly and that it's documented properly and then you move ahead.

In the Charter it also mentions that the LEPC chairs will not receive compensation. So be very aware of who is doing what and that it meets the "Projo test," As I tell my staff here if this showed up on the front page of the Projo, how is it going to read to the senior citizen that's scraping by to see what federal and state dollars are being used for. Once we meet that test and document appropriately we will move ahead. This is being done with every grant with these Homeland Security funds. We will make sure things are being done properly. If you want to bring it by the Ethics Commission, please do.

I welcome their opinion and will take it back to Mr. White in Washington who is responsible for the oversight of these funds. We will work to get the funds out. As far as the 25% I will talk to Pete and we will move ahead and get the funds to you to do the job that you need to do.

Preston: Item #3 “LEPC chairs performing work as a contractor for the State Fire Academy is unallowable.” I believe the purpose of that question was LEPC chairs approving....LEPC chairs don’t approve or disapprove of anything. Our function at the training committee is to ensure that the class is being requested are following the process. They come from the department to the LEPC chair. The LEPC chair has the appropriate application filled out, he gets approved by the chair....this particular department is participating in the LEPC process, it goes to the training committee. Every class gets approved until we run out of money. Where is the conflict? We’re not approving or disapproving?

Chairwoman: But you’re signing off?

Preston: The committee says we have money so let’s spend it.

Chairwoman: You sit on it as the chair?

Preston: No. Nobody gets turned away is what I’m saying. So you’re not approving anything. If you put in a request through Providence LEPC today, you don’t go to the training committee, “is the application filled out, do we have money?” You give them the cuts.

Chairwoman Murray: Mr. White indicated that there was a conflict, it was our concern that it was a conflict and only effects a few people who are sitting in this room as far as I can tell right now that have been paid under this grant. So let's clear it up. If you want to go to Mr. White for clarification, please copy us on it and I will follow up on the other issue about one LEPC being paid. I don't want to belabor this. I want to be sure that it's working properly. We are going to go by Mr. White's opinion. If you want to change that then have him send us a revised opinion. If you have information that clarifies that please get it to me.

LEPC REPORTS

LEPC 1 – No new news to report. TIER 2's have been coming in probably 10% down from last year's reporting.

LEPC2 – We are planning for the quarter evacuation drill. It's going to take place on June 7th, 10 am, we're going to activate the signs. We're going out for 100% participation by all of the stake holders in the port. Check on everybody's contact information, make sure we have a correct address, phone number, reverse 911 phone call we'll be making. We'll be meeting on that again on April 14th for a planning meeting. We're going to be exercising the LEPC plan at Marr Manufacturing on 6/20 of this year, a full scale response exercise. The next LEPC meeting will be at the Providence Public Safety complex on June 13.

LEPC3 – Last meeting was March 15. 25 people in attendance. Next meeting is June 21st. District plan is completed and sent to the SERC for review. Plus we're planning a tabletop exercise at one of my RNP facilities on Wellington Avenue. I have about 80 facilities in my district filed a Tier 2, down about 10 this year one of which is this building here. I also plan attending the LEPC conference in Portland.

LEPC4 – The Tier 2s are in. I'm still working with a couple of companies trying to get them situated. They're late and they know that but they're working on that. They are at least moving forward. LEPC 4 met on March 27th. We're planning a tabletop exercise for the Fall of 2012 at Quonset Point. The next design team meeting is May 5th. We used the EPA contractors for that and it was provided for free. I have a full scale exercise planned for April 7th in Westerly (Saturday). We also have a Port Security application that we're putting in through Quonset Development Corporation trying to get that submitted on time. This is a follow up to a table top exercise we're running in the fall because we wanted to do a full scale exercise to replicate what we do in the tabletop. Next meeting is June 12th and we have two representatives from LEPC4 going to the EPA Conference in Portland.

LEPC5 – Review of the Tier 2 reports of facilities which have increased. Next meeting is Friday at the Middletown Police Station.

D'Abbraccio: Before we go on to New Business, I want to revisit old business for a moment. The minutes went out with the agenda last week. Any questions or concerns over the minutes of the previous meeting?

There was one thing under old business. This committee had voted to have a letter sent to EPA in regard to the EPCRA program. The deadline was March 19th. We wanted to know if that letter did go out from this Committee. I sent it from my LEPC, but this group voted last month to send a letter to the EPA discouraging them from removing the EPA as a enforcement on this.

D'Abbraccio: I got the template from Jim but I don't recall. I've got to follow up.

Motion to accept the minutes: all in favor. Approved unanimously.

Chairwoman: The school letter...any additional comments?

D'Abbraccio: I have to do a signature page with all the right signatures for those agencies.

Preston: The LEPCs chairs will sign, DEM will sign, Department of Health will sign, RIEMA will sign. I think that meets what we want.

Jim Ball was going to sign for DEM. Mr. Vanderslice was going to sign for the Department of Health and I'm assuming the Director will sign for RIEMA and we're done.

New Business:

EPA Chemical Safety Preparedness and Prevention conference. I apologize you did not get that notice but that will never happen again. I am happy to see we will have representation there.

Gina Friedman gave the EPA website and discussed “Right to Know” requests and how they are handled without making them available to the general public. (Lengthy discussion regarding website and access to EPA data base information.)EPA has system called CDX system that is over the internet and you can send a letter to the EPA region-wide.

Preston: According to the original statute if a facility gave their RNP information to the fire department, those individuals were under a \$1million liability should that information get released. Has that language been changed?

Gaffey: I don’t recall that information...this is 1999 Federal Register that promulgated the rules so I don’t remember. Does anybody actually have an RNP?

Preston: Before I retired the ones that I had were shredded and letters were sent to the companies because I was personally responsible for them as the LEPC chair. I no longer wanted those out

there.

Chairwoman Murray: Follow up with the letter that was supposed to go out. You will receive an email about that. The letter today that is going to the schools he will need all of the signatories by the end of today and that letter will go out.

The conference you're all set with. Anything else? The 25%, we'll get together with Ricky and get back to you on that.

Is there a quorum present? If so, we should vote on the letter. Quorum is present. Motion made to send the letter to the schools; seconded and unanimously approved.

Preston: When I was chair of the LEPC, or Hazmat/ Decon group the state was working on the ID cards. And that was supposed to encompass the SERC members. I'm just wondering where RIEMA is at with the ID card initiative. Ray Laprad is handling that. We just got our cards about three weeks ago and that process is continuing. What the order is I'm not sure but please follow up with Ray and report back at the next meeting as to when the plan is for that.

Preston: The ERG guidebooks that are given to states and municipalities free of charge will be coming out and we're in dire need of ERGs at the academy. Ken Baker from RIEMA is in charge of this project. We use those books for every training. We need about

1000 just for the academy. For the state we usually order 30 – 40 thousand. We've contacted RIEMA in the past asking where we're at. They're supposed to arrive in January but if we could get a firm date for when they'll be here.

Next Meeting: It was recommended that the meetings be suspended for July. The committee will meet on May 7th, June 4th and August 6th.

Motion moved to suspend the July meeting; seconded and unanimously passed.

Motion to adjourn, seconded, all in favor.

Jeanette Barrett

Recording Secretary