



**INDIANA EMERGENCY RESPONSE COMMISSION (IERC)
POLICY/TECHNICAL COMMITTEE**

**Firefighters Union Hall
748 Massachusetts Avenue
Indianapolis, Indiana 46204
March 9, 2020 [Start Time: 11:49 am]**

COMMITTEE MEMBERS PRESENT:

James Pridgen—Business/Industry Representative, Chair
Jeff Larmore—Local Government Representative
Laura Steadham—Designee for IDEM Commissioner
Ian Ewusi—IDHS
Dawn Mason—IDHS
Madison Roe—IDHS

COMMITTEE MEMBERS ON THE PHONE:

Cara Cyrus—Business and Industry Representative
Becky Waymire—Morgan County LEPC

COMMITTEE MEMBERS ABSENT:

Matt Bilkey—Designee for ISP Superintendent
Shawn French—Business/Industry Representative

The following Commissioners, staff and audience members were present:

Stephanie McKinney— Local Government Representative

WELCOME AND INTRODUCTION

Mr. Pridgen welcomed everyone to the meeting and asked for a determination of a quorum.

DETERMINATION OF QUORUM

Ms. Mason advised there was a quorum present.

Roll Call

Mr. Pridgen—Yes
Mr. Ewusi—Yes
Ms. Mason—Yes

Mr. Larmore—Yes
Ms. Roe—Yes

Ms. Cyrus—Yes
Ms. Steadham—Yes

CONSIDERATION OF MINUTES

A motion to accept January 13, 2020, meeting minutes was made by Ms. Roe and seconded by Ms. Steadham. All present were in favor. No further discussion occurred.

Roll Call

Mr. Pridgen—Yes
Mr. Ewusi—Yes
Ms. Mason—Yes

Mr. Larmore—Yes
Ms. Roe—Yes

Ms. Cyrus—Yes
Ms. Steadham—Yes

Motion Carried

OLD BUSINESS

Madison County Compliance:

Ms. Roe advised the committee that Madison County LEPC turned in additional documents but are still missing a few required submissions and therefore staff is recommending the IERC not to fund the LEPC due to non-compliance in 2019. Mr. Ewusi stated the committee accepted the recommendation at the January 13, 2020, meeting but due to some technical difficulties was unable to present it at the main IERC meeting for a final vote.

Marion County LEPC Plan Requirement Questions:

Mr. Ewusi recapped the discussion between him and Dr. Beranek regarding the LEPC plan review and the questions Dr. Beranek wanted answered about the plan requirements. Mr. Ewusi stated he explained the IERC determined the plan requirements and funding is withheld if the requirements were not met by the LEPC. He stated Dr. Beranek was still concerned about the requirements, however, Mr. Pridgen emphasized the IERC had not changed what the plan required to meet compliance.

Mr. Ewusi advised he met with Mr. Larmore, Ms. Thevenow and Ms. Chaney and discussed a compromise. He stated the concern during the discussion was the number of facilities in the Marion County's LEPC Hazardous Materials plan and difficulty with developing vulnerability zone maps for each reporting facility. He noted they discussed addressing only the facilities storing Extremely Hazardous Materials (EHS) to help reduce the number of maps required in the plan. Mr. Larmore stated that the LEPC contacted the facilities and asked how they would address each situation based on the type of chemical housed. He stated it reduced the number of facilities reporting based on if they had a plan in place, and it lowered the number of vulnerability zones.

Mr. Larmore explained that Dr. Beranek felt the questions are overreaching but the LEPC is trying to work with the facilities. Mr. Larmore advised that some facilities expressed concern about their Emergency Response Plans and the confidentiality of the content. Mr. Pridgen advised from a legal standpoint confidentiality is not true and stated the facilities need to contact their legal representation with their concerns. Mr. Pridgen asked which facilities are being discussed. Mr. Larmore stated Ingredient and Eli Lilly are a couple that require confidentiality. Mr. Larmore stated there may be

information in the facility Emergency Response plans the LEPC can gather that would help meet the LEPC plan requirement to provide a safe response. Ms. Roe suggested she and Mr. Larmore could reach out to the facilities and formulate the questions to help gather the information needed. Mr. Larmore suggested asking the facilities to gather the information from their plan to answer the questions rather than the LEPC having access to their plans. Mr. Pridgen asked Ms. Roe and Mr. Larmore to get a list of questions together, reach out to the facilities and determine if the facilities would be willing to answer the questions. He indicated giving the facilities about 30 days to get the information back and then advise the committee on the outcome.

NEW BUSINESS

LEPC Compliance Policy Update:

Ms. Mason requested the Policy-Technical Committee create a policy instructing LEPCs to submit all required documentation preferably on the specified due dates, or if extenuating circumstances exist, no later than the end of the reporting year. Mr. Pridgen asked for any comments. He asked Ms. Cyrus and Ms. Waymire for their opinion, in which they both stated it was a reasonable request. Ms. Steadham asked for examples of extenuating circumstances to which staff provided death in the family and new Emergency Management Managers. Mr. Pridgen advised that the definition would be listed in the policy. Mr. Pridgen asked who would approve the extenuating circumstances, and Mr. Ewusi advised that staff and/or he are always aware of the circumstances and therefore could make the decision.

Mr. Larmore asked if the LEPC would be allowed due process if they disagreed with the decision. Mr. Ewusi explained that staff would submit a report to the IERC at each meeting to report which counties are compliant and which are not compliant. He explained the reports would show a history throughout the year rather than waiting until the end of the year to report LEPC compliance status to the IERC. He noted the next LEPC compliance status report would be presented at the May 11, 2020, IERC meeting. He explained that LEPCs would have the opportunity to challenge the decision or question the list. Mr. Larmore approved of the LEPCs having the opportunity to question the decision. Mr. Ewusi explained the reason for the policy request was to help LEPCs submit the documents as required.

Ms. Steadham inquired about the creation of the policy, in which Ms. Mason advised the state legal department would write it. Ms. Steadham asked if it would be based on statutory rule and she advised a process is in place with statute which included 45-day comment period. Mr. Ewusi said the requirements are different because the IERC is charged by the federal government to manage LEPCs in accordance with federal law and Indiana Code. He advised Indiana Code states the IERC has the authority to fund LEPCs if they meet the established guidelines. He stated the IERC, as discussed between Mr. Kinney and himself, has a policy in place stating how to manage LEPCs which is the rule. However, if an LEPC has an issue with a decision made by the IERC, the LEPC has the option to consult an attorney but it does not change the law in place.

Ms. Steadham stated there is no need for a policy to enforce a rule, in which Mr. Ewusi agreed, however staff requested the policy to reiterate the rule. He explained the law would be stated in the directive to the LEPCs through the policy. He discussed Madison and Vigo County LEPCs as examples of not submitting the required documentation. Ms. Steadham explained non-compliance was against the rule. Mr. Ewusi stated the only recourse is to deny funding to the county if they fail to meet compliance.

Mr. Larmore discussed Marion County LEPC not meeting quorum in December of 2019, and therefore the LEPC was unable to approve the October 2019 meeting minutes until the next meeting in February 2020. He asked if the policy suggested uploading unapproved minutes to meet the requirement within the year. Ms. Mason stated she would like to see the LEPCs upload the meeting sign-in sheet with the unsigned meeting minutes until the LEPC can get the meeting minutes signed. This she said would allow the LEPC Program Manager to see that the LEPC met quorum and with the unsigned meeting minutes at least meet compliance.

Mr. Larmore discussed the issues surrounding meetings and meeting quorum. Ms. Mason questioned meeting minutes being submitted if a quorum was not met. Mr. Ewusi stated minutes not meeting quorum should be submitted into Tier II Manager system as pending to show a record of the LEPC trying to hold a meeting. Mr. Ewusi stated the LEPC can upload the sign-in sheet with the unsigned meeting minutes which will represent record of a legal meeting. Any changes or formatting would be all administrative on the LEPC side and would not affect the LEPC not meeting quorum. Mr. Ewusi stated a legal meeting is not related to meeting minutes. He stated a legal meeting is one where a quorum present, therefore, if the meeting minutes are not available, it cannot be an illegal meeting. Mr. Ewusi cited Robert's Rules indicating if a quorum was present at a meeting, but minutes were not recorded the meeting is still considered a legal meeting. He explained the reason for the meeting minutes is to allow the LEPC Program Managers to evaluate what occurred in the meeting such as spending of LEPC funds etc., and that the signed legal minutes will affirm all the contents and aspects of the meeting. Mr. Ewusi further explained that an LEPC meeting must have a quorum, be advertised with the meeting date, time and location for the public to attend to be deemed a legal meeting.

Ms. Mason explained to Mr. Larmore the October meeting minutes would still be typed out and uploaded in October. Mr. Larmore stated they tried to upload the minutes after 2019 closed out but were unable to submit them. Ms. Roe explained that the system closed out the previous year when the new year was generated, but the developer is fixing the program to allow previous year submissions. Mr. Larmore asked if the policy would take into consideration LEPCs being unable to submit meeting minutes until the following year and still meeting compliance.

Ms. Mason discussed the LEPCs submitting more than one sign-in sheet and set of meeting minutes as one report. Mr. Larmore agreed and stated each submission should be kept separate. Mr. Larmore asked if there is continued training for the LEPCs. Ms. Mason stated she planned to train LEPCs throughout 2020. Mr. Ewusi stated the current policy for LEPC meeting minutes is to upload the sign-in sheet into the Tier II Manager system 60 days after the meeting has occurred. He stated the meetings held in November and December creates the problem, therefore, uploading the unsigned minutes with the sign-in sheet would be accepted until the signed minutes could be submitted. He stated this would allow staff to close out that year. He advised the committee that staff is working with iDSI (the developer) to allow LEPCs to add to the previous year submissions if needed.

COMPLIANCE POLICY MOTION

A motion to create a policy by the legal department for LEPCs to adhere to the submission dates unless there are extenuating circumstances approved by staff and/or the IERC Commission, but still submit all required documents by the end of the reporting year was made by Ms. Mason and seconded by Mr. Ewusi. No further discussion occurred. All present were in favor.

Roll Call

Mr. Pridgen—Yes
Ms. Cyrus—Yes
Ms. Waymire—Yes

Mr. Larmore—Yes
Mr. Ewusi—Yes
Ms. Mason—Yes

Ms. Steadham—Yes
Ms. Roe—Yes

Motion Carried

Vision for 2020:

Mr. Pridgen requested each committee member send him an email discussing a key factor in 2020 to address. He would like to see what the committee would like to address and what could be improved.

Homeland Security Exercise Evaluation Program (HSEEP) Requirement:

Mr. Ewusi asked the committee's position on the HSEEP requirements for LEPC exercises. Mr. Larmore discussed the concept of HSEEP and stated it should be followed to give direction and guidance. He explained the importance of target capabilities and having a direction for the exercise. Mr. Larmore suggested taking the essence of HSEEP to make it applicable to LEPCs would promote tremendous improvements. Ms. Mason stated training is required to explain the changes required for HSEEP compliance which included Target Capabilities reformed to Core Capabilities. Mr. Ewusi stated LEPCs are a volunteer group and the exercise wording is different. Mr. Larmore discussed the LEPC hiring contractors to do the exercise and paperwork required. Mr. Ewusi discussed funding related to the LEPCs hiring a contractor. He stated HSEEP compliance was presented to the Commission with the intention of IDHS exercise staff determining HSEEP compliance. He indicated concern with t untrained staff taking on the responsibility of determining HSEEP compliance. Mr. Larmore discussed using a template to help identify the required documents to meet HSEEP compliance for the LEPCs.

No further discussion occurred.

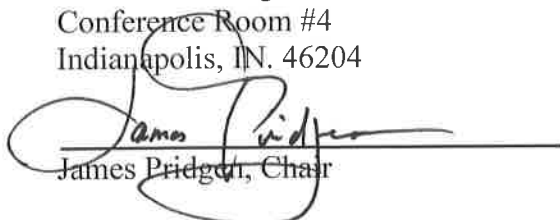
ADJOURNMENT

A motion to adjourn the meeting was made by Mr. Ewusi and seconded by Mr. Larmore. All present were in favor. The meeting adjourned at 12:28 p.m. No further discussion occurred.

NEXT MEETING

May 11, 2020

Indiana Government Center South (IGCS)
302 W. Washington Street,
Conference Room #4
Indianapolis, IN. 46204


James Pridgen, Chair