

Minutes
Nevada State Emergency Response Commission (SERC)

Policy Committee Meeting

2621 Northgate Lane, Suite 12
Carson City, Nevada

January 5, 2009

Members Present

Jim O'Brien, Chair (teleconferenced)
Larry Farr
Tom Porta
Jim Reagan

Staff

Suzie Adam
Shelley Fleming
Karen Pabón
Julie Krom

Guests

Cherie Nevin
Jim Wright

I. CALL TO ORDER

Jim O'Brien called the meeting to order at 9:02a.m.

II. INTRODUCTIONS

Members, staff and guests introduced themselves as shown above. A quorum was present.

III. *APPROVAL OF THE MARCH 13, 2008 MEETING MINUTES

Larry Farr made a motion to approve the minutes of the March 13, 2008 meeting. Tom Porta seconded the motion which was approved unanimously.

IV. NEW BUSINESS

A. *Discussion/Recommendation regarding possible rewrite of Policy 8.1, Hazardous Materials Response Plan and Exercise. Discussions to include but not limited to:

1. Requirement of State agencies to operate under a hazardous materials plan

Karen Pabón advised Policy 8.1 has a contradiction with Policies 8.2 and 8.2a regarding State agencies operating under a hazardous materials emergency response plan. Policy 8.1 states they must operate under the plan. Policies 8.2 and 8.2a state if they fall under a plan, they must identify that plan. Ms. Pabón also stated she does not know of any Emergency Planning and Community Right-to-Know Act (EPCRA) requirement for a State agency to operate under a hazardous materials emergency response plan. The United We Stand (UWS) funding is not subject to these criteria. A discussion ensued. Ms. Pabón advised

State agencies that have applied to SERC for grant funds are not in control of updating or exercising the plan they fall under.

Jim Reagan made a motion to retain the language in SERC Policy 8.1, under the Principle section and the Policy section, A. 2. There was no second to the motion. The motion died.

No action was taken.

2. Requirement of State agencies to do annual updates and exercises of hazardous materials plans

Ms. Pabón stated when a hazardous materials plan does not fall under the particular State agency's purview, the agency does not have the capability of updating or exercising the plan.

Ms. Pabón advised SERC has had no reports of a State agency exercising a plan. A discussion ensued. Mr. O'Brien recommended bypassing agenda items A. 1, 2, and 3. No changes will be made to SERC policies regarding these agenda items until deemed necessary after implementation of current policy.

3. Requirement of Planning and Training Subcommittee to review State agency plans

Ms. Pabón presented a question under this item. If a State agency identifies it is under an all hazards plan or a homeland security plan, should the SERC Planning and Training Subcommittee be responsible for review and approval or denial of those plans that are not otherwise under the SERC's purview.

No action was taken.

4. Requirement of exercises and integration with Homeland Security Exercise and Evaluation Program (HSEEP)

Ms. Pabón advised there is a new form for reporting exercises to the Department of Homeland Security. Mr. O'Brien proposed when a LEPC was already reporting via HSEEP, they could be reporting on the exercise to the SERC. SERC might want to integrate the ability to use the same reporting form used for HSEEP hazmat exercises. A discussion ensued.

The Policy Committee recommended this issue go to the Planning and Training Subcommittee for review of the HSEEP form.

5. Consequences of untimely submission of exercise reports

Ms. Pabón stated SERC has a requirement in Policy 8.1 that an exercise report needs to be submitted within 60 days. However, there is no consequence for not submitting an exercise within the 60 days. An extension can be approved for delay due to mitigating circumstances.

Ms. Pabón advised there are LEPCs that plan exercises that do not come to fruition. They may have had an exercise or incident within the last year and submit that report after the 60 day due date. A discussion ensued.

Mr. Farr made a motion to recommend the language in Policy 8.1 be rewritten to reflect that exercises must be submitted as part of the LEPCs annual updates due January 31. Mr. Reagan seconded the motion which was approved unanimously.

6. Consequences of failure to notify SERC 14 days prior to exercise

Ms. Pabón stated Policy 8.1 has no consequence if the SERC is not notified 14 days prior to an exercise. A discussion ensued.

Mr. Reagan made a motion to recommend the language in Policy 8.1 be changed to read “should” be forwarded to the SERC at least 14 days prior to the exercise, instead of “must” in the Policy section A., 3 and remove any requirement that staff monitor that particular activity. Mr. Farr seconded the motion which was approved unanimously.

B. *Discussion/Recommendation regarding possible rewrite of Policy 8.2, Grant Application, Grant Awards. Discussions to include but not limited to:

1. Requirement of State agency to identify if it falls under a plan

There was some discussion as to whether this item was the same as item A. 1. Ms. Pabón advised this item is different as it is requiring a State agency to identify if it falls under an emergency response plan as opposed to requiring the agency to fall under a plan. A discussion ensued.

Mr. Porta made a motion to recommend the language in Policy 8.2 be changed to read “The agency must identify, by name, the hazardous materials emergency response plan it operates under and what its role is in that plan.” Mr. Reagan seconded the motion which was approved unanimously.

2. Requirement of State agencies to participate in and report on exercise of a plan

A discussion ensued regarding a State agency falling under a plan but does not have any control of the plan and the requirement of the State agency to participate in an exercise under the plan.

The Committee recommended no change.

3. Requirement of State agencies to participate in a Local Emergency Planning Committee (LEPC)/SERC meeting

Ms. Pabón asked if policy should include a definition of “participate” regarding LEPC and SERC meetings. She advised State agencies completing the grant

application kit would not be aware of the requirement to participate in a LEPC/SERC meeting until they read it in the grant application qualifications. A discussion ensued.

Mr. Porta made a motion to recommend the requirement for State agencies to participate in a LEPC/SERC meeting as stated in Policies 8.2 and 8.3, be removed. Mr. Reagan seconded the motion. A discussion ensued. A vote was taken with one yes and two opposed. The motion was denied.

Mr. O'Brien advised the Committee would return to this item later in the meeting.

4. Possible exemptions or alternative to requirement of two bids for consultant/contractor work

Ms. Pabón stated the Funding Committee raised this issue when trying to approve grants that did not have the ability to get two bids. A discussion ensued.

Mr. Porta made a motion to recommend proposed changes to Policy 8.2, section A.1.a., to require LEPCs to follow local contract requirements and to provide for sole source contracts, and the correction of a typographical error. Mr. Farr seconded the motion which was approved unanimously.

Return to Item B. 3.

The Policy Committee continued its discussion of whether State agencies should be required to attend LEPC/SERC meetings.

Mr. Porta made a motion to recommend deletion of the requirement for State agencies to participate in a LEPC/SERC meeting. Mr. Farr seconded the motion which was approved unanimously.

C. *Discussion/Recommendation regarding possible rewrite of Policy 8.2a, License Plate Funding Grant Application, Grant Awards. Discussions to include but not limited to:

1. Possible exemptions or alternative to requirement of two bids for consultant/contractor work

Ms. Pabón stated the requirement of two bids for consultant/contractor work was discussed in item B. 4. of this agenda.

Mr. Porta made a motion to recommend proposed changes to Policy 8.2, section A.1.a., to require LEPCs to follow local contract requirements and to provide for sole source contracts, and the correction of a typographical error. Mr. Reagan seconded the motion which was approved unanimously.

2. Possible revisions to grant application evaluation factors

Ms. Pabón stated this item was discussed at a previous SERC meeting. The SERC recommended better articulation of the evaluation factors for the application for UWS funds. Ms. Pabón advised she sought the assistance of the Department of Public Safety (DPS)/Division of Emergency Management (DEM). No assistance was provided. A discussion ensued.

Mr. Reagan made a motion to recommend changing the title of the State Enhancement Plan to “State Homeland Security Strategy.” Mr. Porta seconded the motion which was approved unanimously.

D. *Discussion/Recommendation regarding possible rewrite of Policy 8.3, Eligibility and Compliance Certification. Discussions to include but not limited to:

1. Requirement of State agencies to operate under a hazardous materials plan, annually update and exercise the plan

Mr. O’Brien stated the Committee had already discussed requiring State agencies to operate under a hazardous materials plan, and to annually update and exercise the plan in section A., items 1. and 2. of this agenda.

No action was taken.

2. Possible addition of consequences of failure to comply with all eligibility and compliance requirements

A discussion ensued about adding consequences to Policy 8.3, Procedure section.

Mr. Farr made a motion to recommend the addition of number 4 to Policy 8.3, in the Procedure section, “Failure to accomplish all eligibility and compliance requirements could result in denial of a grant award by the SERC.” Mr. Reagan seconded the motion which was approved unanimously.

A discussion ensued about the consequences of not maintaining eligibility and compliance requirements.

Mr. Farr amended his motion to include a second sentence to number 4 to read “Failure to maintain all eligibility and compliance requirements could result in the suspension or deobligation of the current grant awards by the SERC.” Mr. Reagan seconded the amended motion which was approved unanimously.

E. *Discussion/Recommendation to develop policy of progressive discipline for LEPCS out of compliance with membership, involvement and administrative items

Ms. Pabón advised this agenda item resulted from a previous discussion at a SERC meeting regarding LEPCS that continually lacked involvement. Ms. Pabón attended

the last Douglas LEPC meeting in December 2008 and the LEPC has active participation.

There are LEPCs that continue to be out of administrative compliance. A discussion ensued regarding possible ways to address lack of compliance including court action. The Policy Committee recommended a request to the SERC's Deputy Attorney General (DAG) to get an opinion regarding enforcement guidelines SERC should follow.

F. *Discussion/Recommendation to establish policy designating maximum amounts of grant request

1. *Discussion/Recommendation on possible elimination of the \$30,000 award maximum for the Hazardous Materials Emergency Preparedness (HMEP) planning grant to allow LEPCs to request additional funding as needed to support a specific project

Ms. Pabón stated it is appropriate to designate the maximum amount of grant funds allowed in the application kit. If SERC decides to make a policy that establishes a maximum amount of grant requests, staff recommends elimination of the maximum amount from the planning section of the HMEP grant. A discussion ensued.

Mr. Farr made a motion to recommend no maximum grant amounts be identified in the SERC policies. Also, maximum grant amount changes be subject to approval by the Commission as a whole. There was no second. The motion died.

Mr. Reagan made a motion to recommend removal of any monetary pre-designations on the grant applications to comply with the fact there are no caps identified in policy. There was no second. The motion died.

The Policy Committee will not take action but recommended a procedural change in the maximum grant amounts that appear on the grant applications. The Committee recommended elimination of the \$30,000 for planning.

G. *Discussion/Recommendation to establish policy to provide prorated operations funding when compliance is met

Ms. Pabón recommended adding policy that funds the LEPC Operations grant on a prorated basis: \$1,000 per quarter from the time of compliance.

Mr. Farr made a motion to recommend accepting the proposed changes to Policy 8.2 regarding operational funding. Mr. Porta seconded the motion which was approved unanimously.

H. *Discussion/Recommendation to establish policy for grant period to commence upon compliance with noted contingencies

Ms. Pabón recommended Policy 8.2 be changed to read the grant period begin in conjunction with the time compliance is obtained. The grant award should actually be dated the day compliance with contingencies is obtained.

Mr. Porta made a motion to recommend accepting the proposed changes to Policy 8.2 concerning grant periods. Mr. Farr seconded the motion which was approved unanimously.

I. *Discussion/Recommendation to establish protocol for LEPCs to provide EPCRA information upon request by the public

Ms. Pabón advised of the DAG opinion for disseminating EPCRA information to the public and asked the Committee if this should be a policy.

SERC has the requestor complete a form requiring name of the requestor, what information is being requested and why the information is being requested before providing any information to the requestor. A discussion ensued.

Mr. O'Brien stated the SERC should provide assistance to LEPCs regarding EPCRA information. Staff will work with the DAG to develop protocol that would be beneficial to the LEPCs, especially when using the new database.

V. Public Comment

Jim Wright of the DPS/State Fire Marshal's Division advised the new hazardous materials database would be going online January 6, 2009.

VI. *Adjournment

Mr. Farr made a motion to adjourn the meeting at 11:27 a.m.