

MINUTES

Nevada State Emergency Response Commission (SERC)

Policy & Legislative Committee Meeting

Friday, December 18, 2015 – 8:30am

Videoconference

Carson City

NV Department of Transportation
Room 112
1301 Old Hot Springs Road
Carson City, NV

Las Vegas

NV Department of Transportation
Building A Conference Room
123 East Washington Avenue
Las Vegas, NV

Elko

NV Department of Transportation
Training Room
1951 Idaho Street
Elko, NV

Members Present

Peter Mulvihill,
Policy Committee Chair
Jim Reagan,
Legislative Committee Chair
Susan Crowley
Stacey Giomi
Matthew Griego

Members Absent

Paul Enos

Staff

Stephanie Parker
Tami Beauregard
Nathan Hastings

Guests

Mike Allen
Robert Fash
Eric Santos

1. CALL TO ORDER

Peter Mulvihill called the meeting to order at 8:35am

2. INTRODUCTIONS

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

3. PUBLIC COMMENT

Mr. Mulvihill called for public comment. There was none.

4. APPROVAL OF THE POLICY & LEGISLATIVE COMMITTEES AUGUST 24, 2015 MINUTES

Jim Reagan made a motion to approve the minutes of the August 24, 2015 Policy & Legislative Committees meeting. Susan Crowley seconded the motion which was approved unanimously.

5. REVIEW OF THE FOLLOWING SERC POLICIES

SERC Policy 8.1 – Hazardous Materials Response Plan and Exercise

Mr. Mulvihill stated there are four policies that are ready for final review from the Committee; SERC Policy 8.1, 8.2, 8.2a and 8.14. Mr. Mulvihill proposed to address these policies first and then at the Committees pleasure address the other policies, 8.3 – 8.13 on the agenda.

Stephanie Parker advised at the previous Committee meeting suggested changes were made and those changes were incorporated for the Committee to review and ultimately make a recommendation to the SERC. Ms. Parker also noted that in the attachment packet the intent of the changes is directly following the policy.

Ms. Parker stated the Committee will start with Policy 8.1.

Ms. Parker advised the changes are noted in the marked-up policy.

Mr. Mulvihill opened up SERC Policy 8.1 to the Committee for discussion. Mr. Mulvihill complemented staff for the significant amount of time and effort put into the updates.

Ms. Parker gave a synopsis of what changes were made.

Mike Allen asked what the United We Stand (UWS) funds are for. Mr. Mulvihill stated the UWS funds are from the UWS License Plate annual fees and the funds are granted to the LEPCs to be used to combat terrorism. Ms. Parker added the grant application kit will be available in April and noted no grant applications were awarded last year due to not enough funds being available.

A discussion ensued with regards to why there was a change made to how the Local Emergency Planning Committees (LEPCs) exercise their Hazardous Materials Responses Plan (Plan). The consensus of the Committee is that the policy is changing to be more realistic with what actually happens in the field.

Ms. Crowley stated she likes the flexibility of the language noting that, if the Planning and Training Subcommittee can or are willing to get back together to review a Plan after the deadline; putting the responsibility on the LEPC to submit the Plan in time. Mr. Mulvihill added the Subcommittee will also have the ability to have SERC staff handle small issues, which means no special meeting will be needed.

Mr. Reagan noted a significant change in the policy with the removal of the eligibility section for State Agencies. Ms. Crowley added that State Agencies are added into the policy where needed.

A discussion ensued with regards to the State Agencies and how they are able to meet the requirement of exercising a hazardous materials plan. Mr. Mulvihill stated a State Agency is not required to have their own hazardous materials plan if they use the Statewide Emergency Response Plan developed by the Nevada Division of Emergency Management (NDEM).

Mr. Giomi asked what the motion will need to consist of. Mr. Mulvihill stated if the language is acceptable to the Committee; the Committee can make a motion to recommend approval to the SERC otherwise staff will continue to work on the policy.

Ms. Crowley made a motion to recommend approval of SERC Policy 8.1 with noted changes to the SERC. Mr. Giomi seconded the motion which was approved unanimously.

SERC Policy 8.2 – Grant Applications and Awards

Ms. Parker gave a synopsis of the suggested changes within SERC Policy 8.2. Mr. Mulvihill added some of the changes are to incorporate the real situations happening in the field.

Mr. Reagan requested that the Personal Protective Equipment (PPE) exemption be added to the State Purchasing section. Ms. Parker agreed.

A discussion ensued with regards to the State Purchasing section changes being burdensome to the LEPCs, the reason for the changes, how the policy can be written so that it has general language for future changes. Mr. Mulvihill suggested this part of the policy continue to be worked on.

Ms. Crowley asked Nathan Hastings to provide an explanation on the legality of the LEPCs having to follow the State Purchasing rules prior to the Funding Committee reviewing grant applications. Mr. Mulvihill added that it is important to share this information with the LEPCs.

Mr. Reagan noted this is not the first time these Committees have dealt with this section of the policy and asked what happened to require the changes. Mr. Mulvihill stated that nothing has changed except that current staff is trying to make SERC policy match existing state regulations and statutes, especially with both State and Federal audits coming in the future.

Ms. Crowley stated it is important to help the LEPCs while balancing the requirements that are not necessarily needed.

Mr. Hastings requested Ms. Parker send him an email with exactly what he needs to review with regards to the Purchasing section of the policy. Mr. Hastings also noted this should be worked out administratively.

Mr. Giomi asked why there was a change in the State Fire Marshal Division (SFM) denial letter.

Mr. Mulvihill gave a synopsis of why the change was made and a discussion ensued with regards to why the denial letter is given to the LEPCs, how the change will make it easier for the SFM to have time to provide the training, the State Board of Fire Services training requirements, the SFM not liking to deny training and the ability to empower the LEPCs to get the training they need when they need it.

Mr. Mulvihill suggested this portion of the policy be re-written so that the SFM can be more positive and not have to deny training, but be a resource to the LEPCs for their training.

Mr. Hastings suggested the portion of the denial letter in the policy be re-written after the Nevada Administrative Codes (NACs) have been changed.

Ms. Crowley stated it is important for the Funding Committee to be very specific in their motion about why the Committee considered an application after the due date.

Mr. Mulvihill noted no motion is necessary and SERC Policy 8.2 will continue to be worked on with regards to the purchasing and denial letter for training sections.

SERC Policy 8.2a – License Plate Funding Grant Applications and Awards

Mr. Mulvihill noted in SERC Policy 8.2a the same training issue is present with the NDEM denial of training letter.

Mr. Reagan noted the same wording in SERC Policy 8.2 will need to be incorporated in the training and purchasing sections. Mr. Reagan then gave a synopsis of the policy changes including that the Threat and Hazard Identification and Risk Assessment (THIRA) is at the state level and not the county level.

Mike Allen advised that in the rural counties, the LEPCs need the ability to come up with training in a hurry and that a training calendar from both the SFM and NDEM would be proactive and helpful. Mr. Mulvihill noted the SFM does have a training calendar on their website at (https://calendar.google.com/calendar/embed?src=36gk257f4f0egatl3r646o6h0c@group.calendar.google.com&ctz=America/Los_Angeles&gsessionid=OK) and believes that NDEM does as well (http://dem.nv.gov/training/Training_Home/). Mr. Giomi added it is helpful to use the SERC website to know when the grant applications are due so the LEPCs can prepare for what training they want.

Mr. Mulvihill asked Mr. Reagan and Mr. Giomi if it is a requirement for the United We Stand (UWS) funds to go through the SERC. Mr. Giomi stated the funds must go through the SERC to be granted to the LEPCs.

SERC Policy 8.14 – SERC and LEPC Release of EPCRA Information

Mr. Mulvihill noted SERC Policy 8.14 deals with Emergency Planning and Community Right-to-Know (EPCRA) information release.

Ms. Crowley asked what NRS Chapter 239 deals with. Mr. Mulvihill noted that NRS Chapter 239 deals with Public Records and Mr. Reagan added that NRS Chapter 239C deals with Homeland Security.

A discussion then ensued with regards to NRS Chapter 239, adding NRS Chapter 239C to the policy and how both NRS chapters will be used to decide who will receive EPCRA information.

A discussion ensued with regards to keeping the second paragraph on page 2, “Pursuant to guidance....” Mr. Hastings gave a synopsis of a string of cases where the Nevada Supreme Court outlines what the balancing test is. Mr. Hastings also noted the US Supreme Court outlines what the balancing test is. Mr. Hastings noted the paragraph should remain because a balancing test will need to be conducted on each request.

Mr. Giomi made a motion to recommend approval of SERC Policy 8.14 with previous and additional changes to the SERC. Ms. Crowley seconded the motion.

A discussion ensued with regards to the ability for the public to request EPCRA information verbally and Mr. Mulvihill gave a synopsis of changes made by the Nevada Legislator including the new procedures that need to be followed.

Mr. Mulvihill called for the vote which was approved unanimously.

A recess was taken from 10:12am to 10:24am

SERC Policy 8.3 – Certified Assurances and Compliance Certification

Mr. Mulvihill opened up SERC Policy 8.3 to the Committee for discussion.

A discussion ensued with regards to the difference between the Certified Assurances and the Compliance Certification and when each document is due to the SERC. It was noted the Certified Assurances note when the LEPC is in compliance with Federal and State laws, the Compliance Certification is giving details of when the LEPC comes into compliance and no changes were suggested with regards to when the documents are due to the SERC.

Mr. Mulvihill gave a synopsis of other minor changes.

Mr. Reagan made a motion to recommend approval of SERC policy 8.3 with noted changes to the SERC. Ms. Crowley seconded the motion which was approved unanimously.

SERC Policy 8.5 – Funding of Grants

Mr. Mulvihill opened up SERC Policy 8.5 to the Committee for discussion.

A discussion ensued with regards to: not needing to specify that the Executive Administrator will sign the grant awards, staff will follow internal controls; not needing the LEPCs to provide the SERC expenditure spreadsheet, the LEPCs will provide their own documentation; not needing the LEPCs to provide the agenda, minutes, grant application, etc. with their financial reimbursement forms, this information is already in a separate file; the financial reimbursement form being changed to include a section of why no expenditures were made, a separate memo will not be necessary and other minor suggested changes.

Mr. Giomi made a motion to recommend approval of SERC Policy 8.5 with noted changes to the SERC. Mr. Reagan seconded the motion which was approved unanimously.

SERC Policy 8.8 – Sub-recipient Program Monitoring and Financial Audits

Mr. Mulvihill opened up SERC Policy 8.8 to the Committee for discussion.

A discussion ensued with regards to what a blatant discrepancy is and it was suggested to use “remains unresolved”. A discussion also ensued with regards to the delinquent financial reports section being handled the same as the claim discrepancy section; with a recommendation going to the SERC for the final decision, if needed.

A discussion then ensued with regards to all grantee/sub-grantees needing to be audited and/or monitored. Ms. Parker explained the process for the Hazardous Materials Emergency Preparedness (HMEP) grant received by the US Department of Transportation (USDOT) and that all grantee/sub-grantees must be audited and/or monitored but that it can be a combination of on site and/or remote auditing of the program and/or fiscal components. Ms. Parker also noted the SERC also has the ability to use the documentation gathered from the NDEM.

Mr. Mulvihill asked if the two other grant offices; Traffic Safety and Criminal Justice would be willing to share their documentation. Ms. Parker stated she will reach out to them.

A discussion ensued with regards to the portion of the policy requiring SERC members to attend LEPC meetings and what assistance the SERC member must provide to the LEPC. It was suggested that this portion of the policy become a suggestion instead of requirement and to notify staff of any help needed by the LEPC, so that staff can provide assistance in a timely manner.

Mr. Giomi added the initial intention was for a SERC member to attend a LEPC meeting as a representative of the SERC. Mr. Giomi suggested the new language be “The Commission member may participate in discussions relative to the SERC and its operations and help to facilitate assistance to the LEPC”.

Mr. Giomi made a motion to recommend approval of SERC Policy 8.8 with noted changes to the SERC. Ms. Crowley seconded the motion which was approved unanimously.

SERC Policy 8.10 – Federal Grant Administration

Mr. Mulvihill opened up SERC Policy 8.10 to the Committee for discussion.

A discussion ensued with regards to if the Interim Finance Committee (IFC) should be mentioned in Section E. Mr. Mulvihill noted it will depend on the situation and applicable rules will have to be followed, so it is not needed.

Mr. Giomi made a motion to recommend approval of SERC Policy 8.10 with noted changes to the SERC. Ms. Crowley seconded the motion which was approved unanimously.

SERC Policy 8.12 – Appeal Process

This agenda item was tabled for a future Policy Committee meeting.

SERC Policy 8.13 – Requirement of Original Signatures, Use of Faxed/Emailed Documents

Mr. Reagan suggested the discussion of SERC Policy 8.13.

A discussion ensued with regards as to whether a hard copy is needed. Ms. Parker requested more time to provide input on this policy.

This agenda item was tabled for a future Policy Committee meeting.

6. PUBLIC COMMENT

Mr. Mulvihill called for public comment.

Mr. Mulvihill advised there are four new Commission members; Caleb Cage with the Division of Emergency Management/Homeland Security, Ryan Sommers with the North Lake Tahoe Fire Protection District, P.K. O'Neill with the Nevada State Assembly and Mark Manendo with the Nevada State Senate.

7. ADJOURNMENT

Mr. Giomi made a motion to adjourn the meeting at 11:15am. Ms. Crowley seconded the motion which was approved unanimously.