

2023 Local Emergency Planning Committee (LEPC) Meeting Transcript

June 6, 2023, 3:08PM

1h 20m 12s

Commissioner Cosgrove: Under the emergency planning and community right to know, Act local emergency planning committees must develop an emergency response plan, review the plan at least annually.

That's why we're here, and to provide information about chemicals and the community the citizens plans are developed by LEPCS. LEPC membership must include, at a minimum, elected state and local officials, police, fire, civil defense, public health professionals, environmental, transportation, hospital officials and facility representatives, representatives from community groups and the media as well.

Some of the required elements from the Community Emergency Response Plan are identification of facilities and transportation routes, extremely hazardous substances, description of emergency response procedures on and off site, designation of a Community coordinator and a facility emergency coordinator to implement the plan, outline of emergency notification procedures description of how to determine the probable affected areas of populations by releases, description of local emergency equipment, facilities and the persons responsible for them, outline of the evacuation plans, training program for emergency responders, methods and schedules for exercising emergency response plans.

The community right to know law, local law 26 of 1988, requires the city to effectively regulate the storage, use and handling of hazardous substances as part of the law. We oversee the storage and use of hazardous substances that pose a threat to public health and environment throughout New York City.

The Right to Know program manages the reporting storage of hazardous substances by requiring businesses and facilities to annually file a Tier 2 report detailing the

quantity, location and chemical nature of every hazardous substance stored within their facilities throughout the five boroughs.

The Right to Know Program uses an online reporting system that allows facilities to electronically submit their annual revision or updated tier 2 submissions and the filing deadline is March 1st every year.

Harry Mayer: Thank you, Commissioner.

So now that we all realize the importance of the LEPC, we're now going to do 2 things.

First, we need to review and approve the Minutes of last year, which I will give to NYCEM to follow. I'm sure you've all had the wonderful opportunity to listen to it online, and if not, well, it's there.

But for now I will hand over to NYCEM to give a quick summary and then we all be in this year's meeting and updates.

NYCEM: So as mentioned, all of this is online.

If anybody wants further details about what happened last year, but the meeting started with introductions, like this today, after introductions, the 2021 LEPC minutes were read, after the reading of those minutes, we reviewed the Minutes from the March 25th, 2022 Hazardous Substance Advisory Board meeting before moving into Tier 2 metrics for that year.

Those metrics were reported as follows.

As of May 31st, 2022, the right to know program had received 11,280 Tier 2 submissions.

Of those, 296 were added to the database and only about 2% submitted hard copy reports, with the rest being online.

The right to know program had 380 risk management plans on file. There were 65 submitted updates to those plans and 150 affidavit letters indicating that there was

no change to their existing risk management plan. There were 29 risk management reports under review and three facilities had been inspected.

With respect to regular inspections, the unit performed a total of 7677 inspections during the 2022 fiscal year. Out of those, 205 facilities were exempt from filing, 318 facilities were out of business, 1520 facilities were closed and or no access was granted, and 257 facilities were issued notices of violations for noncompliance after review of the metrics we moved to a discussion of the right to know program. It was mentioned that the program with coping with severe staffing shortage at the time but it was also mentioned that OMB had given the go ahead to hire more people.

So hopefully that's in a better state now.

And finally, we moved into discussion of lithium ion batteries, which took up the remainder of the meeting. That concluded the meeting.

If anyone interested in more details, the full transcript can be found on New York City Emergency Management website.

Turn it back over here.

Harry Mayer: Thank you. So I guess at this point, let's commence with this year's meeting. Uh, I know on the agenda it says the hazardous Substance Advisory Board, which is something that's usual. We actually run concurrently the LEPC and the HSAB meeting.

So let's I'm going to hand over to Joanne, who will read the meeting minutes from our most recent HSAB meeting that was held this past March, March 7th to be exact. So Joanne, I hand over to you.

Joanne Nurse: Thank you, Harry.

In attendance in that meeting on March 7th was our Commissioners Cosgrove and Peter Fulscot, along with director Harry and myself and Miss Yacoub and our Secretary Noreen Galert.

From Fire Department, we had Vincent Siriano, Jackie Chan from Department of Sanitation, Christopher Williams from Department of Health, and Kevin Clark from Emergency Management.

Director Meyer welcomed participants in the meeting and thanked them for attending.

He introduced attendees of the meeting and asked the participants if they had any questions or concerns regarding the last meeting minutes. As there were none director Meyer motioned that they be accepted as written.

Ms. Yacoub presented a matrix for the chair for submissions received for the 2022 reporting year.

She stated that during the 2023 calendar year, the right to know program received 10,223 submissions.

She also stated that of these submissions, 10,020 reports were submitted online and 203 facilities submitted a hard copy report.

The right to know program currently has 385 risk management plans on file.

They have received 104 affidavit letters indicating that there were no changes and seven updates.

To existing RMPs, the right to know program inspection unit perform 2826 inspections during the 2023 fiscal year.

Of these, 993 were closed or no access was given, 187 were out of business, and 76 facilities were exempt from trialling.

Ms. Yacoub also stated that 123 facilities were issued notices of violations for non compliance with the right to know law regulations.

Director Mayer explained that the division is currently facing staffing challenges and as a result the number of inspections performed were lower than usual.

He further explained that because of the lack of staff that could be assigned to complete inspections, the division's focus shifted to completing technical reviews of the technical submissions that were received.

He also stated that the division's focus will shift again to complete inspections during the third quarter of the year, when there will likely be more staff. Director Mayer went

over the Emergency response jobs that the division has received from July 2022 to present.

So far, the division has performed 1800 responses and they expect the division to respond to approximately 3000 jobs by the end of the fiscal year.

The division has received approximately 54 jobs related to the disposal of ion batteries. Directory Mayer explained that the division is also expecting a very busy deployment schedule now that things were returning to normal.

He stated the date of the upcoming deployments and asked if anyone would like to add anything.

Mr. Chan, from Department of Sanitation, stated that since the EP had helped with the removal of batteries in December, a vendor came in and removed an additional 20 drums of batteries.

Mr. Chan also explained that since mid-December, Sanitation has received 20 drums with Red labels, which makes them much more manageable.

In conclusion, the meeting was open for questions and comments.

Captain Vincent Siriano stated that they were receiving many copies of Tier 2 reports in PDF format, which is a big help to the fire department.

Director Mayer then informed the participants that the next proposed meeting date is June 13th, 2023 and will most likely be an in person meeting in combination with the LEPC.

Directory Mayer then thanked the participants for joining the meeting and stated he looks forward to working with everyone in the future.

Harry Mayer: Thank you so much, Joanne.

So now we're going to start with the 2022 tier metrics numbers, which I know you're all dying to hear.

So for that Safaa, I present you and present the numbers please.

Safaa Yacoub: As of June 30th, 2023, the right nor received 11,077 tier two submissions.

Out of these 11,077 submissions, 247 new facilities were added to our database and submit 2022 tier two reports.

A total of 10,790 facilities submitted online and 287 facilities submitted hard copies. 97.4 submitted online and 2.6% submitted hard copy reports.

For the risk management plan, the right to know program currently has 389 risk management plan reports on file and one additional facility is required to submit the RMP report. The Right to Know program received 35 updates to the existing risk management plan and 150 affidavit letters indicating that there was no change on their existing RMP report.

There are seven risk management plans under review and two facilities have been inspected.

For the inspection during the 2023 fiscal year, the right to know program inspection unit perform a total of three 3824 inspections.

Out of this 83 facilities were exempt from filing. 315 facilities went out of business. 1063 facility were closed and no access granted. 153 facility were issued notice of violation for non compliance with the right to know law and regulation.

Harry Mayer:

Alright.

Thank you, Safaa.

That's a whole combination of numbers and the one number that I'm going to just point out is the 3824 inspections to date.

Like we said before, they are lower than are normal.

However, the good news is we are in the process of hiring.

We do have personnel coming in.

And as we project hopefully by the third quarter, we will switch gears.

Right now, we're focusing our attention on reviewing all of the Tier 2 reports, which is important.

That would be nice to review the documentation before you go out to a facility.

That's to make sure that everything is after it.

So what we're doing is again focusing on all the 11,000 or so you know documents that came in trying to complete them as quickly as possible.

And then once our new personnel come in and we go through the training process, hopefully third quarter, if not sooner, it all depends on how quickly they adapt and understand you know how to do a inspection.

You know, people sometimes think, oh, it's just rules and regulations, but it isn't.

You know, if I send you into a facility with a bunch of chemicals, I think you need a little training first so that you know what you're dealing with.

So you know, we do have a whole training procedure.

They go through learning the law.

They go through a shadowing process and even after that, before we even allow them to go on their own, they're still shadowed again and checked.

And then they're senior people who follow up afterwards, and once they're all done and ready to go, we let them out on their own.

And they go on and do these inspections, which are important to all of us because a lot of the emergency response agencies have access to Tier 2 and that is where we actually, you know, during an emergency response, that's where a lot of people, a lot of response you know.

Counterparts go to that database.

Check everything out and see what's actually there.

When we have an incident at hand, so to our goal of course, to have the most up to date, the most accurate records.

So with that, that's really what's happening and hopefully a year from now I'll be able to tell you that we're back at 95%, which is usually where we are.

We've had that before.

Hopefully a year from now that will be the report. So.

On the agenda, we get to hazardous materials response metrics and then we have noteworthy emergency responses and special deployments.

So I'm going to combine both together and I will just talk about the emergency response numbers and then I will note a specific type of response and then go to the fun stuff which are deployments and then go back to our friends, the lithium ion jobs, which are a story and themselves. OK as we projected from the HSAB meeting in March, our numbers right now are at. You know that the lessons, let's say 2670 responses.

So we're definitely on our way going to 3000.

There's no question about it.

You know, when we average around 250 to 350 responses a month, I think the 3000 number is definitely going to be low.

So we've had a busy active season.

Normally in our response numbers we group our numbers by category.

All of you who you know seen this, the hazardous materials management report lists them out, breaks them down.

Wonderful graphics, you know, good stuff here.

Definitely worth reading and what it comes down to is the same categories as always our chemical responses, fires, spills, explosions, petroleum, etcetera.

But now we have another added flavor: lithium ion batteries, which I'm going to talk about in a moment.

I'll talk about the fun stuff, and then we'll talk about lithium.

Let me just switch and talk about deployments because those are the easy things.

That's the one that everyone likes, where we go out, we have special deployments.

We work as a significant team where we work with our colleagues at NYPD, FD, Health, the state, the you know, the CST's, you know, the if you want to say that the military, we have a wonderful team that works together on special deployments, we go out, we do our best to monitor for chemicals, rad, biologicals.

That's really what we do.

So this year we've had a pretty good season so far.

We've done St. Patrick's we've had the New York Mets opener, the Yankees opener.

The five borough bike tour we've had, the Brooklyn Half Marathon.

There was a United Airlines half marathon also.

We just had the Israeli parade this past Sunday.

We're looking forward to the Puerto Rican Day celebration parade this Sunday.

Then, of course July 4th, which is a nice one.

Then I'm just going to move forward.

I'm moving early, but we have U.S. Open, which is a very large detail.

the UN General Assembly, the New York City Marathon, the Macy's Thanksgiving parade.

Of course, the Rockefeller Center tree lighting and New Year's Eve, so that is actually on the agenda for now for this year.

So far so good.

All of our partners have been working together.

I just saw Vincent, just two days ago and I'm expecting to see him again this Sunday.

So it's nice to see familiar faces and to have, you know, wonderful working relationship, you know, with everyone you know here at the table.

So now let's talk about something that's near and dear to everyone here.

Lithium ion batteries.

Well, last year we talked about the issue of lithium ion batteries and well how to deal with them.

I mean, it's been a year there has been a lot of progress on lithium ion batteries.

Uh, for those of you who are, uh, not aware in December, uh OEM and NYPD, FDNY, and sanitation, we all came together, came up with a protocol.

The protocol is as follows: whenever there's a lithium ion battery, FD of course takes the lead because it is life safety that's their core competency.

Once that part is done, it's either the HAZMAT team or sometimes the local battalion removes the batteries out and they pack.

The good part?

What this is?

I know people don't realize this.

I know it makes no sense whatsoever, but it is a true thing.

You put out a fire on a lithium battery.

Pack it up in water and before you know it the thing catches fire again.

You say to yourself, I thought it's over.

Not true.

So what happens is you need to pack up these batteries that are damaged, which they're normally called DDR, defective, damaged or recyclable type batteries in an absorbent called cell block, which is extremely expensive.

So you need to pack them in these and in this cell block absorbent and then it needs to be transported for either recycling or disposal.

Either way, sounds like a nice clean cut procedure.

Yes and no.

And let's now talk about something just to give you an idea.

In front of me is the list of jobs that we've had so far from middle December to present.

I am looking at as of this weekend 153 responses just for lithium ion batteries.

153 and they stem from the guy in the one family house with his basement all the way to commercial facilities.

You've seen it on the news, you've seen, you know, the unfortunate damage that results from these things.

And of course, there are situations where fatalities happen, which is unfortunate.

Loss of life is never justified, but it does happen.

These things have issues people sometimes don't realize that these batteries can have what they call thermal runaway.

It just overheats.

It cooks and boom, and it's not like the regular fire.

It's when you look at these things and you open them up.

I mean, it has a little battery case like everyone sees, but when you open it up it has these little cells in there.

Maybe believe you have little AA batteries.

I mean, they're a little bigger, but they're like that.

They're all lined up inside, and they're all interconnected.

Wires, you know, series well, what happens is it just don't burn.

They go off like bullets, literally like firecrackers everywhere, right?

I mean, you know, and that's the problem.

It just engulfs everything very, very fast and that's why you see the images on the news or in the newspapers of all the significant damage that these things cause, so definitely it's a major problem from our end, FD's end, of course we're there to get rid of them in a safe manner as quickly as possible.

so the protocol, as I said, works in this way once it's safely packed by FD, it's now in cellblock. It's in a metal drum. It needs to go out.

OK, give you an example.

One small drum 15 gallon, which is really this tall, right?

Nothing big this wide this tall.

It could run anywhere between \$2000 and \$3000 to get rid of that drum, which is an astronomical number to look at for one battery.

And you said to yourself, how can that be?

Well, the problem with that is it is unstable.

Lithium is a unstable metal. It is great.

The battery itself has significant power, but it doesn't like to behave if the reaction is still ongoing.

You think you got control, you hope you have control?

You could still come and reignite, so people stay away.

Contractors who are specifically in business to work with hazardous material sometimes shy away.

They don't want to deal with it because now we take it from where it was, bring it to their facility, they're afraid it's going to blow up and burn up their their, you know, their warehouse.

So they don't want it most of the time it goes on to a truck, usually open, and it gets trucked right to the facility for destruction or recycling immediately.

So that's where the money comes in.

It's quick, so initially the city was handling all of these FD and Sanitation.

It was all going into one facility in Brooklyn.

You heard in the minutes that there was a point where DEP came in and cleaned up some of the drums that were collected at DSNY.

The actual situation is DEP came in on November 30th through December 2 and removed 152 drums from DSNY.

Approximately 8000 pounds worth of batteries at a low cost.

Mind you, and I'm not kidding here.

I'm not joking at \$102,000, OK, so naturally this is where costs labor.

Investment time had to be considered, and that's how a protocol had to be developed.

So the protocol comes up this way.

There's something in New York City called the spill bill right.

In short, our New York City Spill Bill

It's actual name is the hazardous substance emergency response law.

Local law 42/87.

This law, which is particularly empowering DEP, empowers DEP to do one thing. It allows it to give an order to a responsible party -- that could be an individual, could be a corporation, it could be anything.

I've had orders issued to, as I said, one family person all the way up to the NYCHA and everybody in between.

There's no exemption.

This is the agreement. FD packs it, we got called.

If there's a responsible party, they are given 72 hours by order, the order says you must secure you must hire a licensed contractor and you must get it disposed properly and provide all documentation.

You have 72 hours. Now DEP is there to make sure that this process is followed.

That's if there's a responsible party.

If there is a responsible party and they default because they don't want to cooperate, which we've had a few, then DEP becomes the responsible party, the city takes custody and we take care of it.

But the responsible party is not off the hook.

We have the ability to issue notices of violation.

Mind you, we don't like to do this.

As I said, you can get rid of a small drum for two or \$3000, but notices of violation start at \$10,000 a day, every day, depending on how many things you did wrong to violate. Some people willfully think that we're not going to do anything, but we don't.

We give you an order, we give you a notice of violation and we see you in court.

Why are we taking this hard approach?

It's because these things cause problems.

Significant problems.

They're dangerous.

Most of the time I would say, not most, I would say a significant majority of the time, people comply.

And I would just say for example.

I have the numbers here.

I said there were about 153 jobs.

OK, alright, I have out of the 153.

65 Commissioners orders ordered so give and take the math 42 to 43% of all lithium

ion battery jobs are done by the responsible party under oversight of DEP, of course, Now that's a significant savings, keeping in mind that some of these jobs don't involve 1 drum, some could have multiple drums.

So when you look at the numbers, in your mind, you say to yourself, OK, well, what does that really mean? You know, just percentages well for jobs that there is no responsible party, it's just there, like burns up on the street.

It's abandoned.

Unfortunately, someone throws it in a garbage bag and goes into the back of the sanitation truck.

The sanitation truck catches fire.

All of these things happen.

No responsible party.

Actually, that's the city's responsibility.

We remove it.

Like I said, we assume custody.

We get rid of it safely.

It's done again.

FDNY, naturally, is our partner.

They're the ones who put it out, pack it, it's a team effort.

But now let's look at numbers.

So far using this procedure, the city has spent about \$135,000.

OK.

So that's a savings to the city.

Almost.

Let's call it a 60-40 split, 40% responsible party, 60% city.

So the program, the protocol, the law is working in our favor and people comply.

And for those who don't, we'll see them in court.

We have several cases.

We've had a few think they're cute, try to pull a fast one on us.

The only problem with us is we follow through, we make sure it's done the right way.

So the protocol has been effective.

Thanks to everyone here who are partners with us.

I thank you.

And also I need to acknowledge the Mayor's office.

There is such a thing now as the Mayor's Office Task force on micro mobility.
Now the task force to which myself I know Vincent FD sits.
We sit on it as well as many other partners have been working very diligently in passing new rules and regulations.
I know FDNY has a lot of regulations on the books that were approved to how to control these batteries from being remanufactured second hand.
There is a lot of task force investigations going out, you know, cold investigations. If you want to call them, call them that going to businesses that they suspect are doing remanufacturing illegally.
There's requirements on, you know trading in batteries or there's some sort of cost incentive or some sort of subsidy.
There's work going on at the state level similarly to try to control these things, there's federal regulations going in the works which are trying to restrict improper uncertified type batteries.
They might need to be UL listed.
They need to be certified by a laboratory of some sort, so there's a lot of work going on.
This has taken a life of its own.
People have realized that even though these batteries seem harmless, they're not. So when I say noteworthy responses, well, there's 153.
So far, we average at least one a day, and on good days we could get three or four a day and I could tell you now I'm sure our partners in FD can admit it.
I admit it, it gets to be very, very difficult to handle and fatiguing.
You need to control it and need to secure it.
You need to dispose it.
It's a lot of work, so even though we have almost five contractors available to us, even that may be, in our case, it's still difficult that some, many times it's in middle of night, could be on a holiday, it could be a weekend.
Well, people are busy.
They don't want to show up, you know, I get calls in the middle of the night.
We got a battery.
I mean, FD does it, we get it.
It is what it is.
That's how it happens. Now.
You call the contractors 3:00 o'clock in the morning.

The procedure we follow is we need to do a bid.

We have the authority to do a verbal bid, but again, who was the lowest bidder?

Who was the most responsive bidder that you know is a very difficult procedure even during the day and sometimes there is no response.

We're still waiting.

We under the protocol, we actually have to get a fire guard to sit on the drum and watch it because as I said, these things are unstable.

So as we went through all this and through the cleanups that we've done, I mean we did one for DSNY for about \$102,000. we did one for NYPD and January at \$393,000. So you can see I'm talking significant numbers here.

The department internally decided that the best thing to do is to have what we have, what we would call an on call contract, which means the person who gets this contract is available 24/7, weekends, holidays, you name it.

There's a time limit to respond, you know?

And I know there is a protocol. There is of course, differentials and pricing. If it's an evening, it's a holiday.

I mean, we had to make it enticing and we did put out a contract.

We let it out for bid and we did have and solicit a successful bidder.

The contract is in the comptroller's office now, waiting for I guess registration once that's in place, we'll definitely be streamlining the process even further and hopefully this will allow us at DEP, you know, the ability to have someone available 24/7.

That's really our intent, because we do know and we expect, unfortunately, many more of these until all the new laws and regulations kick in.

A lot of the people who unfortunately manufacture second hand batteries, and I say second hand, that means they literally, I mean we just had one this weekend, a bike shop, they take out a used battery, take out the internals, put it into a new casing and sell it at a discount.

The only problem with that is the components are already damaged, so since they're damaged, it makes no difference if it has a nice shiny case.

The damage is there, so we have those and I know FD is going out, PD is going out, we get, we get calls where you know they pack up things where they suspect improper, you know construction or second hand manufacturing.

So it's going to take a while as all the laws kick in, as the enforcement kicks in, and as people understand, you know what? Sometimes that cheaper battery may not be worth it because you know, putting that thing in my living room and not being able

to come out the next morning, is it really worth the \$50 or \$100 savings?

You know the educational aspect.

I know DSNY is involved

I've seen FDs pamphlets.

It's a very complicated uphill battle.

But people are working on it and like I said, that's why I call it noteworthy responses, because it's not only DEP, it's everyone around the table who has a piece of it where we need to get to educate people to realize, hey, you know what?

Think twice before you actually, you know, play around or try to get some sort of shortcut.

It may not be worth it.

So with that, I will conclude my speech here on lithium ion batteries and again acknowledge formally and thank all of our partners that work with us on this, because it is indeed a significant effort.

So thank you all.

And with that, Commissioner.

Commissioner Cosgrove: Thank you, Harry for that analysis.

Anybody have any comments or questions regarding the noteworthy responses or special deployments or contributions?

Speaker: Continue to get the word out about electronic submission of the Tier 2, because while we were speaking I got information that the fire department received about 5000 hard copied.

OK, I know that the PDF filtered domains specifically that I get them out to the field and I probably handle a couple of thousand.

OK, I keep responding back that this is sufficient.

You don't have to mail us a hard copy, and I just urged them to send it in PDF because then I have to wind up converting them into PDF to push them out.

So just keep that messaging and then maybe 2-3 four years from now when we can move away from the hardcopy.

Absolutely.

Thank you.

Thank you.

Anyone online?

Uh attending virtually have any comments?

OK.

And once going twice, alright.

Anything else?

Did I miss anything?

Right.

Everything and more that you wanted to know about lithium ion.

Responses.

Alright, thank you very much everybody for attending and participating and for all your help throughout the year.

Thank you everybody online for all your help throughout the year.

Is your partner in this very much appreciated and that will conclude this year's meeting of the local Emergency Planning Committee.

Thank you. Welcome.