

BYLAWS

BASTROP COUNTY LOCAL EMERGENCY PLANNING COMMITTEE (LEPC)

ARTICLE I - NAME AND PURPOSE

Section 1. Name. The name of this organization shall be the Bastrop County Local Emergency Planning Committee, hereinafter referred to as the "LEPC".

Section 2. Purpose. The purpose of the LEPC shall be:

- A. To perform the responsibilities established for the LEPC by Public Law 99-499, Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III, the Emergency Planning and Community Right-to Know Act (EPCRA) and related regulations, including but not limited to:
 - (1) Assistance in developing, training, and testing of hazardous substances emergency response plans for jurisdictions within the county.
 - (2) Developing procedures for regulated facilities to provide notification to the LEPC in accordance with EPCRA.
 - (3) Developing procedures for receiving and processing requests from the public under the community right-to-know provisions of EPCRA.
 - (4) Providing public notification of committee activities.
- B. To implement such other activities as may hereafter be legally required by the federal government, the State Emergency Response Commission (SERC), or the County Judge.

ARTICLE II - MEMBERSHIP

Section 1. Qualification. The organization shall consist of those members nominated by the County Judge and approved by the SERC for membership in this body. Those persons named shall represent the various professional and community groups as designated by EPCRA. Members of the LEPC shall be a resident of, or conduct business in, Bastrop County.

Section 2. Officers. Officers of the LEPC shall be elected to conduct meetings, appoint subcommittees, keep minutes, and to otherwise accomplish the work of the committee.

Section 3. Terms of Office. The term of membership in the LEPC, once established, will be for a period of two years. Officers may be selected to succeed themselves or to move to other positions on the LEPC. No term limits are established for this jurisdiction. The term of office shall be as provided in Article III, Section 3.

Section 4. Vacancies. Any vacancy occurring in the LEPC by reason of resignation, death, or disqualification of a member will be filled by appointment in accordance with Article II, Section 1. The Executive Committee may make suggestions for candidates to fill vacant positions to the County Judge, who will make their recommendation to the SERC for approval.

Section 5. Duties. The LEPC shall assist established emergency planning offices for jurisdictions within the county with planning emergency response and public information as directed by laws.

Section 6. Meetings. There shall be at least four (4) regular meetings of the committee per year. The Chairperson may call special meetings of the LEPC at such time and place as the Chairperson may

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determine. The Chairperson must call a special meeting of the LEPC upon the written request of five members. LEPC committees shall meet as needed to perform their tasks.

Section 7. Quorum. The presence of thirty-three percent (33%) of the members of the LEPC at the opening of the meeting shall constitute a quorum for the transaction of business by the LEPC. For the purposes of Standing Committee meetings, the presence of three members shall constitute a quorum for the transaction of business.

ARTICLE III - OFFICERS

Section 1. Listing of Officers. The Officers of the LEPC shall be a Chairperson, Vice-Chairperson, and a Secretary-Treasurer who shall be elected by the committee as a whole in a manner herein provided. All officers shall be members of the LEPC.

Section 2. Nomination and Election of Officers. Prior to the expiration of the officer's term of service, nomination and election of officers shall occur. Nominations will be accepted from the floor for the positions of Chairperson, Vice-Chairperson, and Secretary-Treasurer. The election shall be by ballot, except that when there is only one nomination for each office election may be by voice vote. These officers shall be selected by the majority of the members of the LEPC present and voting at the meeting.

Section 3. Term of Office. The term of office shall be for a period of two years.

Section 4. Chairperson. The Chairperson shall preside at all meetings of the LEPC; shall serve as ex-officio member of all committees; and shall perform such duties and acts as necessary to accomplish the goals of the LEPC. The Chairperson shall appoint the Chairperson of each of the Standing Committee and may create any ad hoc committees necessary to accomplish the goals of the LEPC.

Section 5. Vice-Chairperson. When the Chairperson cannot perform the duties, the Vice-Chairperson shall perform the duties of the Chairperson. The Vice-Chairperson shall execute such other duties as assigned by the Chairperson.

Section 6. Secretary-Treasurer. The Secretary-Treasurer shall be the custodian of all books, papers, documents and other property of the LEPC. The Secretary-Treasurer shall keep a true record of the proceedings of all meetings of the LEPC. Additionally, the Secretary-Treasurer shall attend to the business needs of the LEPC and shall maintain an accurate record of all monies received and expended for the use of the LEPC.

Section 7. Information Coordinator. An Information Coordinator will be appointed by the LEPC. The Coordinator shall process requests from the public for information under Section 324, including Tier II information under Section 312. Additionally, the Coordinator shall assist the Secretary-Treasurer in records management and financial matters. The Information Coordinator shall be a non-voting member of all committees and the LEPC.

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ARTICLE IV - COMMITTEES

Section 1. Executive Committee. The Executive Committee will consist of the Chairperson, Vice-Chairperson, Secretary-Treasurer, and Chairpersons of the four Standing Committees as described below. The Information Coordinator shall serve as a non-voting member of this Committee. The duties of the Executive Committee shall be to coordinate activities of the Standing and Ad Hoc Committees.

Section 2. Standing Committees. The following Standing Committees are hereby established:

- A. Right-to-Know Committee. This Committee is responsible for the formulation of all policies and procedures concerning the public's right-to-know program; the formulation of all chemical release reporting procedures; the establishment of trade secret protection procedures; and the formulation of all record keeping and information dissemination procedures for the LEPC.
- B. Public Education and Information Committee. This Committee is responsible for reviewing the public alert and notification program; public relations with affected communities and public at large; all publicity of the LEPC; development of public education and information program.
- C. Hazardous Materials Facilities Liaison Committee. This Committee is responsible for procedures for identification and communication with affected facilities. This Committee shall work with the Emergency Response and Resources Committee and with affected facilities to review and help the local emergency management office(s) test a hazardous substance emergency response plan for the planning district as required by law.
- D. Emergency Response and Resources Committee. This Committee works with the Hazardous Facilities Liaison Committee and with existing emergency response organizations in jurisdictions within the planning district to review and help the local emergency management offices test a hazardous substance emergency response plan for the planning district, as required by law. This Committee reviews existing federal, state, and local plans for the purpose of coordination with the LEPC planning process.

Section 3. Meetings. Meetings of the Standing and Ad Hoc Committees may be called by the Chairperson of the LEPC or the Chairperson of the Committee as deemed necessary.

Section 4. Chairperson of the Standing Committees. The Chairperson of the Standing Committees shall be appointed by the Chairperson of the LEPC, and shall serve under their oversight.

Section 5. Membership of Standing Committees. Members must volunteer to serve on at least one Standing Committee and may not serve on more than two Standing Committees. Final membership of the Standing Committees shall be determined by the Chairperson, after consultation with the Executive Committee, to ensure that all Committees have sufficient manpower to carry out their assigned tasks.

Section 6. Ad Hoc Committees. The LEPC Chairperson may create Ad Hoc Committees as necessary to perform the functions of the LEPC. Chairpersons of Ad Hoc Committees shall be appointed by the Chairperson of the LEPC.

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ARTICLE V - MISCELLANEOUS PROVISIONS

Section 1. Fiscal Year. The fiscal year of the LEPC shall run from October 1 to September 30.

Section 2. Indebtedness. The LEPC is not authorized to spend money on behalf of Bastrop County. The only authorized expenditures are those budgeted and approved by the Commissioners Court, as requested by the EMC. Any funds raised by the LEPC (including of State or Federal Grants) will be under the management of the Bastrop County Judge and the Bastrop County Auditor.

Section 3. Approval of Bylaws. These bylaws shall become effective upon approval by a majority by those in attendance at the organizational meeting.

Section 4. Disqualification. Any member who is unable to attend a regular meeting of the LEPC may notify the Secretary-Treasurer or Information Coordinator. Any member with five or more absences is subject to being disqualified at the request of the LEPC to the County Judge and the SERC.

ARTICLE VI - AMENDMENTS

Section 1. Amendments. These bylaws may be amended by a two-thirds vote of members present and voting at any meeting of the LEPC, provided that any proposed amendments to these bylaws be submitted to the members in writing at least one week in advance of the meeting.

ARTICLE VII - RULES

EPCRA requires that the LEPC “shall establish rules by which the committee shall function. Such rules shall include provisions for public notification of committee activities, public meetings to discuss the emergency plan, public comments, response to such comments by the committee, and distribution of the emergency plan.” The final rules are attached to these by-laws.

Section 1. Adoption of Rules; Publication of Proposals. The LEPC may, as necessary and proper, adopt rules of general application governing the execution of its responsibilities under EPCRA and related applicable regulations. Any such rules must first be published in proposed form not less than 10 days prior to final adoption of by the LEPC. Publication shall be effected through posting of the proposed rule and a statement of basis and purpose on the public bulletin board located on the wall of the Bastrop County Courthouse Annex, Bastrop, Texas (hereafter referred to as “notice of proposed rule-making”). Such notice of proposed rule-making shall invite written public comment on any aspect of the proposed rule during the 10-day period. The LEPC Information Coordinator is encouraged, but not required, to mail notices of the proposed rule-making to interested local government officials, industries, and citizens.

Section 2. Method of Initiating Proposed Rule-making. Any member of the LEPC may recommend the initiation of proposed rule-making. Any proposed rules shall be initially considered by the Executive Committee, unless otherwise decided by the LEPC. If the Executive Committee, by majority vote, approves a proposed rule it shall thereafter proceed to publication as provided in the preceding section.

Section 3. Method of Adopting Final Rules. Following the 10-day comment period, the Executive Committee shall review all public comments and prepare a statement, which responds to comments raised and discusses the basis for any appropriate changes to the proposal. The Executive Committee shall present such statement of the LEPC. The LEPC shall then vote on the adoption of the proposed

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rule. If the LEPC acts favorably, the rule shall take effect immediately upon the time and date the notice of adoption is first published unless the LEPC determines otherwise.

Section 4. Notice of Adoption. Upon adoption of any rule by the LEPC, the Information Coordinator also shall publish the LEPCs response to comments received and any changes to the proposal made in response to such comments. Publication of the final rule shall be in the same manner as that of the proposed rule. Nothing herein shall require a specific response to each and every comment received.

Section 5. Emergency Rules. In emergency circumstances, to be determined, the LEPC may adopt rules without prior public notice and comment, provided that no such rule will remain in effect for more than 90 days.

ARTICLE VIII - PARLIAMENTARY AUTHORITY

Section 1. Parliamentary Authority. The rules contained in Robert's Rules of Order, Newly Revised, shall govern this committee in all cases to which they are applicable and in which they are not inconsistent with these bylaws.

Attachment: Bastrop County LEPC Final Rules

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FINAL RULES

I. Definitions

Unless otherwise stated, all terms herein shall be defined in accordance with the definitions provided in the Title III of the Superfund Amendments and Reauthorization Act of 1986, PL 99-499, (the "Act") and regulations adopted in accordance therewith.

II. Public Notification and General Participation

- A. The LEPC shall publish notice of all meetings, including subcommittee meetings, on the public bulletin board located on the wall of the Bastrop County Courthouse Annex, Bastrop, Texas, at least 72 hours prior to any meeting. In emergencies declared by the Chairperson and confirmed by a majority of the LEPC in attendance at an emergency meeting, the 72-hour notice may be waived in accordance with Section 3A(h) of the Texas Open Meetings Act (TOMA), Tex. Rev. Civ. Stat. Ann art. 6252-17.
- B. All meetings of the LEPC or any subcommittee shall be open to the public, except under circumstances where the TOMA permits otherwise. The Chairperson shall afford a reasonable period of time at the beginnings of each regular monthly meeting to accept oral public comments on any aspect of the LEPCs mission or functions.
- C. Not less than once each calendar year, the Chairperson shall cause to be published in a newspaper of general circulation in Bastrop County a notice that written public comment is invited, during a thirty-day period, on any aspect of the LEPCs organization, membership, functions, planning process, or purpose. Such notice shall comply in all respects with Section 324(b) of the Act and present a brief explanation of the LEPCs statutory purpose, the location of LEPC minutes and other records, and the name and address of the person designated by the Chairperson to receive written comments.

The LEPC shall review all comments received and shall publish, in the manner described in subsection A of this section, responses to major issues raised in such public comments. Nothing herein shall require the LEPC to respond to each and every comment received.

III. LEPC Participation in the Planning Process

- A. The Texas Disaster Act of 1975, as amended, requires each local and inter-jurisdictional agency to prepare and keep current an emergency management plan for its area. Additionally, in accordance with a Governor's Executive order, the mayor of each municipal corporation and the county judge of each county in the state are the designated Emergency Management Directors for each such political subdivision. In Texas, LEPCs are therefore not the primary entity responsible for the composition and maintenance of an emergency management plan.
- B. The LEPC will work with the local governments responsible for emergency management plans which cover the areas of LEPC responsibility.

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1. The LEPC shall review such plans once a year or more frequently as changed circumstances in the community or at any facility may require. Their primary focus should be on the parts of the plan which cover the following categories: warning, population protection, emergency public information, resource management, and HAZMAT response.
 2. The LEPC shall evaluate the need for resources necessary to develop and implement the emergency plan, and shall make recommendations to each local government with respect to additional resources that may be required.
- C. The LEPC should maintain copies of current plans and annexes of each jurisdiction it serves.

IV. Public Access to Information

- A. In accordance with Section 324 of the Act, all information obtained from an owner or operator pursuant to EPCRA and any requested Tier II form or the Material Safety Data Sheet (MSDS) otherwise in possession of the Committee shall be made available to the person submitting a request under this section, provided that, upon request of the owner or operator, the Committee shall withhold from disclosure the location of any specific chemical identified in the Tier II form.
- B. All information requested to be photocopied by any member of the public shall be provided at the sole expense of such persons. The cost of such photocopying shall be set from time to time by the Information Coordinator, with the approval of the Executive Committee, at a level which will enable the LEPC to recover all reasonable expenses associated with processing the request. Copies of the LEPC bylaws and rules or proposed rules shall be provided to the public at no charge, although the Information Coordinator is authorized to recover reasonable expenses for photocopying in the case of requests for multiple copies made by any single individual or entity.
- C. Request for MSDS and Other Non-Confidential Information
 1. Any person may obtain a MSDS with respect to a specific facility by submitting a written request to the Committee's Information Coordinator.
 2. Any person may obtain any other non-confidential information in the possession of the Committee by submitting a written request to the Committee's Information Coordinator.
 3. If the Committee does not have in its possession the MSDS or other information requested in subsections C1 or C2 of this section, it shall request a submission of the MSDS from the owner or operator of the facility that is the subject of the request. Requests will only be made to specific facilities for information which the Committee is required to maintain or collect pursuant to applicable law.

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D. Requests for Tier II Information

1. Any person may request Tier II information with respect to a specific facility by submitting a written request to the Committee in accordance with the requirements of this section.
2. If the request in subsection D1 of this section is from a state or local official acting in their official capacity, or the request is limited to hazardous chemicals stored at the facility in an amount in excess of threshold planning quantities, and the Committee does not have the Tier II information requested in its possession, the Committee shall request submission of the Tier II form from the owner or operator of the facility that is the subject of the request.
3. If the request under subsection D1 of this section does not meet the requirements of subsection D2 of this section, the Committee may request submission of the Tier II form from the owner or operator of the facility that is the subject of the request if the request includes a general statement of need.

V. Trade Secrets

Except as provided in this section, all information submitted to the LEPC by facilities pursuant to EPCRA shall be public information. Other than a claim designated in this section, the LEPC will not honor any business confidentiality or trade secret claims. Pursuant to Section 312 and Section 214(a) of the Act, the location of specific chemicals requested to be submitted with Tier II information shall be maintained as confidential by the LEPC, provided that a claim of confidentiality is submitted with the information and satisfies all applicable requirements for such claims under EPCRA and any regulations promulgated pursuant to the same. Such information shall be exempt from disclosure by the LEPC permanently or until such time as:

1. An authorized governmental agency, or if applicable a court or competent jurisdiction, makes a final determination following any appeals, that such information is not subject to a valid claim of business confidentiality or trade secret, and
2. The LEPC receives a written notice of such determination.