

Albuquerque/Bernalillo County Local Emergency Planning Committee

Inception 1/87

Mission

To support the citizens of Albuquerque and Bernalillo County to keep the community safe from the effects of hazardous materials in order to assure effective response to hazardous materials emergencies and to ensure that the population of Albuquerque/Bernalillo County be well informed about the hazardous materials present in the community and know how to respond appropriately to emergencies.

Operating Rules

ARTICLE 1

SECTION 1.1. NAME – The name of the organization shall be “Albuquerque/Bernalillo County Local Emergency Planning Committee”, hereinafter referred to as the “LEPC”.

SECTION 1.2. PURPOSE – The purpose of the LEPC shall be:

To participate in carrying out for Albuquerque/Bernalillo County, those responsibilities required of the LEPC pursuant to Public Law-99-499, Superfund Amendments and Reauthorization Act (SARA) of 1986, SARA Title III, the applicable Sections of the Emergency Planning and Community Right-to-Know Act (EPCRA) and related regulations. Those responsibilities include, but are not limited to:

- Assistance to the local emergency management organization in development, training, and evaluation of the City's All Hazard Emergency Operation Plan and the Bernalillo County Emergency Operations Plan
- Development of procedures for regulated facilities to provide notification to the LEPC in accordance with SARA Title III. Development of procedures for receiving and processing requests from the public under the Community Right-To-Know provision of SARA Title III
- Provision for public notification of LEPC activities
- To conduct or assist in conducting conferences, training, and seminars related to emergency planning, homeland security, and/or environmental surety
- To implement such other and further related activities, as may hereafter be legally required by the Federal government, the New Mexico (NM) State Emergency Response Commission (SERC), or Albuquerque/Bernalillo County

SECTION 1.3. AUTHORIZATION – The SARA of 1986 was enacted by Congress into law on October 17, 1986, and contains SARA Title III: the Emergency Planning and Community Right-To-Know Act of 1986.

In accordance with SARA Title III, the SERC designated Albuquerque/Bernalillo County as a Local Emergency Planning District. The LEPC for this District is composed of elected officials, police, fire, first aid, emergency management, public health professionals, environmental, hospital, and transportation officials, representatives of facilities subject to the emergency planning requirement,

community groups, and the media. The task of the LEPC is to establish rules, notify the public of its activities, and establish procedures for handling public requests for information.

Pursuant to SARA Title III, the LEPC has adopted the Operating Rules contained herein.

ARTICLE II

MEMBERSHIP INFORMATION

SECTION 2.1. QUALIFICATIONS-Those persons seeking membership shall represent the various professional and community groups, as designated by SARA Title III. Prospective members shall be residents of or conduct business in Albuquerque/Bernalillo County and have an interest in supporting the Mission and the Purpose of the LEPC.

ARTICLE III

ORGANIZATIONAL INFORMATION

SECTION 3.1. EXECUTIVE COMMITTEE - This Committee shall be responsible for coordinating activities with all standing and ad hoc subcommittees in addition to other duties deemed necessary by the active members of the LEPC. The Executive Committee shall consist of the following officers:

Chairperson - The Chairperson shall preside at all meetings of the LEPC; shall serve as ex-officio member of all subcommittees, with the empowerment to vote in the event of a tie; and shall perform such duties and acts as necessary to accomplish the purpose of the LEPC. The chairperson shall be empowered to create such other ad hoc subcommittees as necessary to accomplish the goals of the LEPC. The Chairperson will serve as the Community Emergency Coordinator. The Chairperson is an elected officer.

Vice Chairperson - Upon absence of the Chairperson, the Vice Chairperson shall perform the duties of the Chairperson. The Vice Chairperson shall perform such other duties as may be assigned by the Chairperson. The Vice Chairperson will serve as the information coordinator. This person will process requests from the public for information under EPCRA Section 324, including Tier II information under Section 312. The Vice Chairperson will serve as the Information Coordinator. The Vice Chairperson is an elected officer.

Second Vice Chairperson - Upon absence of the Vice Chairperson, the Second Vice Chairperson shall perform the duties of the Vice Chairperson and other such duties as may be assigned by the Chairperson or the Vice Chairperson. The Second Vice Chairperson is a support position and does not succeed the Vice Chairperson. The Second Vice Chairperson is not excluded from running for election to the position of Vice Chairperson. The Second Vice Chairperson is an elected officer.

Treasurer – The Treasurer shall maintain financial records of the LEPC’s funding and financial transactions and shall prepare or authorize preparation of appropriate tax forms for submittal to local, state, or federal agencies as appropriate. The Treasurer is an elected officer.

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Secretary - The Secretary shall be the custodian of books, papers, documents and other property of the LEPC. The Secretary shall keep a true record of the proceedings of all meetings of the LEPC. The Secretary shall be responsible for publishing public notice of meetings when required, training opportunities, and outreach activities. Additionally, the secretary shall attend to the business needs of the LEPC. The Secretary is an elected officer.

Legal – The Executive Committee shall appoint as needed a legal representative as an advisor to assist in legal affairs. This appointee will be a non-voting member of the Executive Committee.

SECTION 3.2. VACANCIES-Any vacancy occurring in the Executive Committee by reason of resignation, death, unexcused absences totaling three or more, or disqualification of a member shall be filled by special election.

SECTION 3.3. TERM-Term of elected officers shall be two (2) years. If an Executive Committee member is elected during mid-term due to a vacancy, the term shall be the remainder of the term of the vacated member.

SECTION 3.4. STANDING SUBCOMMITTEES – The standing subcommittees will be active as long as there is work to be done and members to serve on the subcommittee. The subcommittee may be inactive due to lack of work or lack of members. The standing subcommittees shall include a Chairperson and a Vice-Chairperson. Subcommittees may be combined, as deemed necessary by the Executive Committee, due to inactivity or when subcommittee tasks are similar.

Planning – This subcommittee’s duties may include developing and assisting in the revision of the hazardous material response portion of emergency operations plans; establishing a vulnerability zone determination methodology; reviewing site-specific hazardous materials response plans submitted by other facilities; recommending the LEPC annual goals;

- Coordinate with and support local Emergency Management agencies
- Decide whether to develop LEPC Emergency Management Plans (EMP) or adopt the City or County’s Emergency Plan if it meets EPCRA requirements
- Review Facility’s Emergency Response Plans (use Region 6 Checklist) as requested (voluntary)

Public Information – This subcommittee shall be responsible for writing public notices; establishing an information retrieval system; performing citizen/neighborhood outreach to inform them of goals and objectives and other information that is available.

- Establish and initiate yearly outreach objectives
- Plan to educate the public about:
 - Purpose of the LEPC
 - Hazards in the community
 - How the public will be warned
 - What they should do
 - Available resources

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Training and Exercise – This subcommittee will discuss training needs for LEPC participants; and coordinate training for the LEPC, share training opportunities available with the LEPC. Support local and State exercises and training.

- Describe training program and schedules for all emergency responders
- Train members about LEPC rules, EPCRA
- Determine training needs
- Identify personnel to be trained
- Identify training facilities
- Identify qualified instructors

Executive – This subcommittee is responsible for appointing chairpersons for each subcommittee; developing LEPC long term goals; soliciting volunteers to fill vacancies; being familiar with state, local, and federal laws that impact the hazardous material planning process; developing a work plan with timetables for the other subcommittees. The Executive committee will be responsible for supporting recommendations for LEPC funding and will work in conjunction with the Treasurer in maintaining a proper accounting system.

- Must review local Emergency Management Plans annually or as circumstances change
- Make available Tier II, MSDS, and emergency notices to public (coordinate with NM Homeland Security)
- Establish procedures to process requests for public information
- Obtain name of Facility Emergency Coordinator to participate in LEPC planning process
- Identify and request MSDS for any chemical stored on site to support local responders
- Reply to Tier II requests promptly

Note: May file civil action against facility that doesn't provide information (when necessary)

Business Outreach/Resource Development – This subcommittee is responsible for researching the community's resources for emergency response; identifying alternative resources upon which the community may draw in time of emergency or disaster; identifying other volunteer or in-kind assistance contributions, which may be used for various types of response. Also, responsible for developing initiatives that will encourage active participation by the community's commercial businesses and industrial facilities.

Emergency Response – This subcommittee is responsible for supporting response; coordinating the development of a local resource/capability list to respond to a Level III hazardous materials incident and sharing this information with the City of Albuquerque and Bernalillo County Emergency Operations Centers. Also, coordinate the sharing of industry/first responder procedures, training, etc.

- Coordinate with local fire departments to provide Tier II information to first responders who may encounter a hazardous materials incident

SECTION 3.5. AD HOC COMMITTEES – In addition to the standing subcommittees, ad hoc subcommittees shall be appointed, as necessary, to address special needs of the LEPC not addressed by other subcommittees. Ad hoc subcommittee Chairpersons shall be appointed by the LEPC Chairperson.

ARTICLE IV

MEETINGS

SECTION 4.1. GENERAL MEETINGS - The types of meetings conducted by the LEPC are defined further in the below Section:

- LEPC meetings open to the public will be posted on the LEPC website, announced during presentations, or advertised in print media when appropriate. The public is invited to all meetings held by the LEPC
- A quorum for general meetings shall be defined as a majority of the Executive Committee and a minimum of four (4) other members for all general LEPC meetings
- An electronic notice shall be sent to all LEPC members at least seven (7) days in advance of scheduled general meetings with agenda items to be discussed and voted upon
- The LEPC shall meet a minimum of four (4) times per year
- Written minutes for each LEPC meeting must include a summary of decisions and basis for the same as well as a list of attendees

SECTION 4.2. COMMITTEE MEETINGS

- The Chairperson will determine the number of Executive Committee meetings to be held as deemed necessary by the goals of the Committee. A quorum (three (3) members) of Executive Committee members will be necessary for Executive Committee meetings
- The standing subcommittee Chairperson will determine the number of meetings to be held, as deemed necessary by the goals of the standing subcommittee

SECTION 4.3. ANNUAL MEETING – A meeting will be held in the first quarter of the calendar year as designated by the Chairperson, for the purpose of informing the public of the status of LEPC standing and ad hoc subcommittees, and to invite public comment regarding all aspects of the LEPC. Formal notice of the LEPC annual meeting must be published in an Albuquerque newspaper and on the LEPC web site 30 days prior to the meeting.

SECTION 4.4. EMERGENCY MEETING – An emergency meeting may be called by any Executive Committee member, if they determine that such emergency meeting is necessary in the interest of the safety and welfare of the public. A minimum of two (2) hours notice is required in any event. An attempt shall be made prior to the meeting to contact all Executive Committee members, by telephone, with contact of at least a majority required to conduct an emergency meeting.

SECTION 4.5. PARLIAMENTARY AUTHORITY – The rules contained in **Basic Parliamentary Procedure (attached)**, shall govern the LEPC in all cases to which they are applicable, and in which they are not inconsistent with these Operating Rules.

ARTICLE V

FISCAL INFORMATION

SECTION 5.1. GENERAL INFORMATION – The LEPC may receive and disburse funds in support of activities defined in these Operating Rules.

SECTION 5.2. FUNDS –

- Monies from entities will be deposited in the LEPC account and the Treasurer will act as the fiscal agent and provide any reporting as necessary
- Monies from hosting conferences or seminars, or being the fiscal agent for conferences and seminars will be deposited in a LEPC account

SECTION 5.3. EXPENDITURES –Expenditures will be made as funds are available and approved by the Executive Committee (quorum of three (3)).

SECTION 5.4. REPORTING –A financial report will be made to the Executive Committee at each LEPC meeting or as requested by the Executive Committee.

SECTION 5.5. FISCAL YEAR – The fiscal year shall be considered to run from January 1 to December 31.

ARTICLE VI

ORGANIZATIONAL RULES INFORMATION

SECTION 6.1. METHOD OF INITIATING PROPOSED RULEMAKING - Any member of the LEPC may recommend the initiation of proposed rulemaking. Proposed rules shall be submitted in writing and considered by the Executive Committee. If the Executive Committee, by majority vote, approves a proposed rule it shall, thereafter, proceed to publication as provided in this Article.

SECTION 6.2. ADOPTION OF RULES: PUBLICATION OF PROPOSALS – The LEPC may adopt rules of general application governing the execution of its responsibilities under SARA Title III and related applicable regulations. Any such rules must first be published in proposed form not less than ten (10) days prior to final adoption by the LEPC. Publication shall be effected through posting of the proposed rule and statement of basis and purpose in the legal notice on the LEPC website (The proposed rule, together with the statement of basis and purpose, are hereafter referred to as “Notice of Proposed Rulemaking”). Such notice of proposed rulemaking shall invite written public comment on any aspect of the proposed rules during the ten (10) day period. The LEPC Secretary, or his/her designee, is encouraged, but not required, to publish such notices of the proposed rulemaking in the multi-media.

SECTION 6.3. METHOD OF ADOPTING FINAL RULES - Following the expiration of the ten (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 this statement to the LEPC. The LEPC shall then vote on the adoption of the proposed rule. If the LEPC acts favorable, the rule shall take effect immediately upon the time and date the notice of adoption is first published.

SECTION 6.4. NOTICE OF ADOPTION - Upon adoption of any rule by the LEPC, the Secretary, or his/her designee, also shall publish the LEPC’s 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 for proposed rules. Nothing herein shall require a specific response to each and every comment received.

SECTION 6.5. EMERGENCY RULES – In emergency circumstances, to be determined by the LEPC Chairperson and confirmed by a majority of the LEPC in attendance at any emergency meeting, 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.

SECTION 6.6. AMENDMENTS – These Operating Rules may be amended by a majority vote of members present and voting at any meeting of the LEPC, provided that any proposed amendments to these Operating Rules be submitted to the members in writing at least ten (10) days in advance of the meeting. Operating Rules and a membership list will be submitted as needed to the SERC by hand or certified mail. The new Operating Rules will also be sent to the Public Regulatory Commission to be recorded.

SECTION 6.7. ELECTIONS – Process for elections for terms beginning in 2012: The Chairperson, 2nd Vice Chair, and Secretary will be elected for service that begins in January of even years. The Vice Chair and Treasurer will be elected for service that begins in January of odd years. Elections will take place in the 4th Quarter of the preceding Calendar Year. Terms for the above elected positions will be two years. There are no limits on consecutive terms that may be served in an elected position. Nominations will be made and posted on the LEPC internet website 30 days prior to the election. The winning candidate(s) will be determined by a simple majority vote, and announced prior to the end of the meeting at which the election takes place.

SECTION 6.7.1 SPECIAL ELECTIONS – If a vacancy occurs on the Executive Committee, the Chairperson will request nominations from the LEPC membership at the next general meeting. Nominations will be made and posted on the LEPC internet website 30 days prior to the election. The winning candidate(s) will be determined by a simple majority vote, and announced prior to the end of the meeting at which the election takes place.

ARTICLE VII

REGULATORY RULES INFORMATION

SECTION 7.1. GENERAL INFORMATION - Unless otherwise stated, all terms herein shall be defined in accordance with definitions provided in SARA Title III, P.L-99-499, and regulations adopted in accordance therewith.

SECTION 7.2. PUBLIC NOTIFICATION AND GENERAL PARTICIPATION - The LEPC shall publish notice of all meetings on the LEPC internet site at least 72 hours prior to any such meeting. In emergencies, declared by the Chairperson and confirmed by a majority of the LEPC in attendance at any emergency meeting, the 72-hour notice may be waived in accordance with Section 10-150-1 of the New Mexico Open Meeting Act.

The Albuquerque/Bernalillo County LEPC does not discriminate against any individual for any reason such as: race, ethnicity, color, national origin, gender, religion, age, or disability. The LEPC will try to make reasonable accommodations to allow participation by all individuals. All meetings of the LEPC or any subcommittee thereof shall be open to the public, except under circumstances where the New Mexico Open Meetings Act permits otherwise. The Chairperson shall afford a reasonable period of time at each regular meeting to accept public comments on any aspect of the LEPC's mission or functions.

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Not less than once each calendar year, preferably prior to the annual meeting, the LEPC Secretary will publish in a newspaper of general circulation, in the Albuquerque/Bernalillo County area, and on the LEPC's internet site a notice that written public comment is invited, during a 30-day period, on any aspect of the LEPC's organization, membership, functions, planning process, or mission. Such notice shall comply in all respects with Section 324(b) of SARA Title III and present a brief explanation of the LEPC's 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. Nothing herein shall require the LEPC to respond to all comments received.

SECTION 7.3. PUBLIC ACCESS TO INFORMATION - In accordance with Section 324 of SARA Title III, all information obtained from an owner or operator pursuant to SARA Title III and any requested Tier II form or Material Safety Data Sheet (MSDS), otherwise in possession of the LEPC, shall be made available to the person submitting the request under this section. The only exception shall be any information which the owner or operator has designated as confidential or when coordinating with the State of New Mexico Department of Homeland Security & Emergency Management.

All information requested to be photocopied or otherwise made accessible to any member of the public shall be provided at the sole expense of the person making such request. The cost charged to the requestor to provide this information may include photocopying, data processing, mailing or delivery charges. Rates for these charges will be determined at the time of the request and set at a level which enables the LEPC to recover all reasonable expenses associated with processing the request.

Routine Requests for MSDS, Tier II, and Other Non-Confidential Information:

- 1) Any person may obtain MSDS, Tier II, or any other non-confidential information in the possession of the LEPC with respect to a certain facility by submitting a written request to the LEPC Information Coordinator.
- 2) If the LEPC does not have in its possession the MSDS or Tier II forms, it shall request a submission of the MSDS or Tier II form from the appropriate owner or operator.
- 3) The LEPC will only make requests to specific facilities for information that it is required to maintain or collect pursuant to applicable law.
- 4) Should the LEPC receive a request for information not addressed in this section, the Information Coordinator shall refer the requestor to the appropriate owner or operator.

LEPC records will be retained for a minimum of 3 years unless required to be retained longer by regulation requirements.

SECTION 7.4. TRADE SECRETS - Except, as provided in this section, all information submitted to the LEPC by facilities pursuant to SARA Title III, shall be public information. Any information deemed by the submitter to be a trade secret must comply with the EPA Instructions for Completing the EPCRA Trade Secret Substantiation Form (See Environmental Protection Agency 40 CFR PART 350 [FRL - 3388] Trade Secrecy Claims for Emergency Planning and Community Right-to-Know Information; and Trade Secret Disclosures to Health Professionals; Final Rule amended on November 14, 2003 (68 FR 64724).

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Such information shall be exempt from disclosure by the LEPC permanently, or until such time as (1) an authorized governmental agency and, if applicable, a court of 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 written notice of such determination.

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Basic Parliamentary Procedure

When running meetings, here are some of the rules, the language and order that can help them proceed in an orderly fashion. If the group uses this, it is important to review and practice it with all of them early, so every member feels informed and equipped to fully participate in meetings.

- Chairperson calls meeting to order (“this meeting will come to order”).
- Only those who get recognized by the chair may speak during a meeting which has “come to order”.
- Side conversations are not allowed; if someone wants to speak, it should be to the whole group (unless someone gets permission from the Chairperson to have a small side conversation for the purpose of furthering the meeting).
- The Chairperson acts as a neutral “gatekeeper” in discussions of matters to be voted upon.
- In order to discuss something the group needs to vote on, someone (other than the Chairperson) has to make a motion or proposal (“I move that...happens”).
- The Chairperson should do substantially more facilitation of conversation (“what do you think, Pat?”) than talking him/herself.
- In order to even discuss a motion, someone has to “second” it (“I second the motion”).
- The minutes need to reflect who makes motions, who seconds them and what exactly the motions are (so the secretary may ask the chair to clarify these things at any time).
- If there is no second, the motion dies (will not be discussed).
- If there is a second, the Chairperson calls on people to speak for or against the motion (giving reasons to vote for or against).
- If someone who supports the basic motion wants to suggest a change within the motion, he/she may make a “friendly amendment” in the form of a new motion “I would like to move that the current motion be amended like this:...”). If they just don’t agree, that’s what they say and it doesn’t alter the actual motion.
- The motion to make a friendly amendment either gets a second and the newly altered motion gets discussed or it dies and discussion returns to the original motion.
- The Chairperson usually sets a limit of so many minutes for consideration of a motion and may ask speakers to (a) wrap up their point soon and/or (b) only speak if they have new thoughts on the topic.
- Anytime someone who gets called upon can “call the question,” meaning that if someone else seconds that “call” the group must vote at that time on the motion “on the floor” (being discussed).
- Once a vote is taken by eligible voting members, the secretary announces the numbers and the Chairperson announces whether it “passed” or not.
- The Chairperson then gives directions or requests that appropriate action be taken by whomever is responsible to act on the motion that has been “passed.”
- The Chairperson then thanks the participants for their discussion and/or makes suggestions for how to perhaps have a better discussion the next time.
- At the end of the meeting, the Chairperson asks for a “motion to dismiss.” Someone seconds and the Chairperson asks for a vote. If it passes, the meeting is officially over.