

**BYLAWS
OF
THE KINNEY COUNTY LOCAL EMERGENCY PLANNING COMMITTEE (LEPC)**

**ARTICLE I
NAME AND PURPOSE**

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

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

- A. To carry out for Kinney County those 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 (a) hazardous substances emergency response plan(s) for jurisdictions within Kinney County.
 - (2) Development of procedures for regulated facilities to provide notification to the LEPC in accordance with EPCRA.
 - (3) Development of procedures for receiving and processing requests from the public under the community right-to-know provisions of EPCRA.
 - (4) Provision for public notification of committee activities.
- B. To implement such other and further related 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 residents of or conduct business in Kinney County.

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

Section 3. Terms of Membership. The membership of the LEPC, once established, will be for a period of two years. Members 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.

3a. Alternate. A member may designate an alternate(s) to attend an LEPC meeting on their behalf. The committee member must submit the name of the alternate(s) to the executive committee for approval.

Section 4. Vacancies. Any vacancy occurring in the LEPC by reason of the 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 his or her recommendation to the SERC for approval.

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

Section 6. Meetings. The committee shall conduct quarterly meetings each year. The chairperson may call special meetings of the LEPC at such time and place as the chairperson may determine. The chairperson must call a special meeting of the LEPC upon the written request of five members. The special committees shall meet as the work under their grouping's proceeds.

Section 7. Quorum. The presence of thirty-three percent 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. Enumeration of Officers. The Officers of the LEPC shall be a chairperson, vice-chairperson, secretary-treasurer, and information coordinator 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, and information coordinator. The election shall be by ballot, except when there is only one nomination for each office, in which case 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 the officers elected at the organizational meeting shall expire one year from the date elected. Thereafter, the term of the officers shall be for a period of 2 years.

Section 4. Chairperson. The chairperson shall preside at all meetings of the LEPC, shall act as signatory on all official documents, and shall perform such duties and acts as necessary to accomplish the goals of the LEPC. The chairperson shall be empowered to create such other ad hoc committees as necessary to accomplish the goals of the LEPC.

Section 5. Vice-Chairperson. Upon resignation or death or in the 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.

Section 6. Secretary-Treasurer. The secretary-treasurer, in cooperation with the information coordinator, 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, in conjunction with the Information Coordinator, 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. The LEPC will appoint an information coordinator.⁵ 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/financial matters and shall be responsible for posting information through various media outlets/bulletin boards.

ARTICLE IV COMMITTEES

Section 1. Executive Committee. The Executive Committee will consist of the chairperson, vice-chairperson, secretary-treasurer, and information coordinator. The duties of the Executive Committee shall be to coordinate the activities of the standing and ad hoc committees.

Section 2. Standing Committees. The following standing committees shall be established, as needed, to meet the needs of the LEPC goals:

A. Right-to-Know Committee. This committee shall be 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 shall be responsible for the review of the public alert and notification program; the public relations with affected communities and the public at large; all publicity of the LEPC; and the development of the public education and information program.

C. Hazardous Materials Facilities Liaison Committee. This committee shall be responsible for the procedures for identifying and communicating 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 shall work with the Hazardous Materials Facilities Liaison Committee and with existing emergency response organizations in jurisdictions within the planning district 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. This committee shall review existing federal, state, and local plans for coordination with the LEPC planning process.

Section 3. Meetings. The LEPC Chairperson or the chairperson of the committee will call meetings of the standing and ad hoc committees as deemed necessary.

Section 4. Ad Hoc Committees. The LEPC chairperson may create ad hoc committees as necessary to perform the functions of the LEPC. The LEPC chairperson will appoint chairpersons of ad hoc committees.

ARTICLE V MISCELLANEOUS PROVISIONS

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

Section 2. Indebtedness. All indebtedness incurred by the LEPC shall be approved by the chairperson before payment by the secretary-treasurer.

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

Section 4. Attendance. Any member who is unable to attend a regular meeting of the LEPC shall notify the secretary-treasurer of their absence and confirm who their alternate will be.

ARTICLE VI AMENDMENTS

Section 1. Amendments. A two-thirds vote of members present may amend these bylaws at any meeting of the LEPC, provided that any proposed amendments to these bylaws are submitted in writing to all members with a valid e-mail address 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 bylaws.

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 fewer than 10 days prior to final adoption by the LEPC. Publication shall be affected through posting of the proposed rule and a statement of basis and purpose on the public bulletin boards of the entities in Kinney County, Texas, and on the Kinney County website. (The proposed rule together with the statement of basis and purpose is hereafter referred to as “notice of proposed rulemaking.”) This notice of proposed rulemaking 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 rulemaking to interested local government officials, industries, and citizens.

Section 2. Method of Initiating Proposed Rulemaking. Any member of the LEPC may recommend the initiation of proposed rulemaking. 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 expiration of the 10-day comment period, the Executive Committee shall review all public comments and prepare a statement that responds to comments raised and discusses the basis for any appropriate changes to the proposal. The Executive Committee shall present such statements to the LEPC. The LEPC shall then vote on the adoption of the proposed 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 shall also publish the LEPC 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 the proposed rule. Nothing herein shall require a specific response to each 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 remains 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 consistent with these bylaws.

KINNEY COUNTY LEPC FINAL RULES

I. Definitions

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

II. Public Notification and General Participation

A. The LEPC shall publish notice of all its meetings, on the public bulletin boards of the entities in Kinney County, Texas, and on the Kinney County website 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 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 thereof shall be open to the public, except under circumstances where the TOMA permits otherwise. The chairperson shall afford a reasonable period at the beginning of each regular monthly meeting to accept oral public comments on any aspect of the LEPC’s 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 Kinney County 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 purpose. Such notice shall comply in all respects with Section 324(b) of the Act 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.

C. 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 comment received.

III. LEPC Participation in the Planning Process

A. The Texas Disaster Act of 1975, as amended, requires each local and interjurisdictional 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 shall strive to work with the local governments, which are responsible for the emergency management plans, on the areas of LEPC responsibility within the plans.

(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. The primary focus should be on those parts of the plan that cover the following categories: warnings, 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 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 Safety Data Sheet (SDS, formerly Material Safety Data Sheet) otherwise in possession of the LEPC shall be made available to the person submitting the request under this section, provided that upon request of the owner or operator, the LEPC withholds 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 periodically by the information coordinator, with the approval of the Executive Committee, at a level that enables the LEPC to recover all reasonable expenses associated with processing the request.

C. Copies of the LEPC bylaws, proposed rules or rules shall be provided at no charge to the public, 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.

D. Requests for SDS and other non-confidential information shall be subject to the following:

(1) Any person may obtain an SDS with respect to a specific facility by submitting a written request to the information coordinator.

(2) Any person may obtain any other non-confidential information in the possession of the LEPC by submitting a written request to the information coordinator.

(3) If the LEPC does not have in its possession the SDS or other information requested in Subsections D1 or D2 of this section, it shall request a copy of the SDS from the owner or

operator of the facility that is the subject of the request. The LEPC shall only make requests for information it is required to maintain or collect pursuant to applicable law.

E. Requests for Tier II information shall be subject to the following:

(1) Any person may request Tier II information with respect to a specific facility by submitting a written request to the LEPC in accordance with the requirements of this section.

(2) If the LEPC does not have in its possession the Tier II information requested in Subsection E1 of this section, it shall request a submission of the Tier II form from the owner or operator of the facility that is the subject of the request, provided that the request is from a state or local official acting in his or her official capacity or the request is limited to hazardous chemicals stored at the facility in an amount in excess of threshold planning quantities.

(3) If the request under Subsection E1 of this section does not meet the requirements of Subsection E2 of this section, the LEPC 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 under Subsection E1 of this section includes a general statement of need.

V. Trade Secrets

A. Except as provided in this section and the guidance provided by the Office of the Attorney General of Texas in the Public Information Act Handbook and other determinations as applicable, all information submitted to the LEPC by facilities pursuant to EPCRA shall be public information.

B. Other than a claim designated in this section or the Public Information Act Handbook, the LEPC shall not honor any business confidentially or trade secret claims.