

**BYLAWS
OF
THE MORRIS COUNTY LOCAL EMERGENCY PLANNING COMMITTEE**

ARTICLE I

NAME AND PURPOSE

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

Section 2. Purpose. The purpose of the LEPC is set forth in SARA Title III/EPCRA and includes any other lawful purpose which is assigned to it or permitted by the County, Tribe or District Commissioners, and/or the Commission on Emergency Planning and Response (CEPR), which is formerly known as the State Emergency Response Commission (SERC) in Kansas. In keeping with the intent of the SARA Title III/EPCRA regulations, all activities of the LEPC will be conducted in a manner encouraging input and participation from all segments of the community. The LEPC will develop a chemical emergency response and preparedness plan for the planning district and establish procedures for conducting its public information and education responsibilities. The plan shall be reviewed and updated as necessary on a regular annual basis, in accordance with Section 303 of SARA Title III.

The LEPC will, in addition:

1. Receive and process requests for information from the public.
2. Notify the public of all LEPC meetings or activities.
3. With the information and reports from facilities operating within the jurisdiction of the LEPC, and analysis of the district’s transportation risks, perform a hazard analysis.
4. Establish and maintain a database of hazardous chemical locations and quantities in the district.
5. Establish and maintain a system of data management.
6. Maintain information on ALL facilities that manufacture, or store, Extremely Hazardous Substances (EHS), and include this information within the emergency response and preparedness plan.

The LEPC will establish, and notify the public that all meetings, including sub-committee and ad hoc committee meetings, are open to the public. The LEPC will implement such other and related activities as may hereafter be legally required by the federal government, the Commission on Emergency Planning and Response (CEPR), or the board of county commissioners. The LEPC will make assessments of resources necessary to implement the emergency response and preparedness plan, and make recommendations to appropriate people, agencies, and organizations regarding additional resources needed to implement the plan. The LEPC is instrumental in fulfilling the

purpose of the Community Right-to-Know laws to increase the protection of the community from exposure to chemicals produced, used, stored, and/or transported within the planning district. Transportation hazards analysis includes those risks to the district from commercial transportation by rail, highway, aircraft and waters of commerce.

ARTICLE II MEMBERSHIP

Membership will at all times include, at a minimum, representatives of the groups listed in Section 301 of SARA Title III. This includes equal representation of elected state and local officials, law enforcement, emergency management, firefighting personnel, first aid/EMS personnel, health personnel, local environmental personnel, hospital personnel, transportation personnel, broadcast and print media personnel, community groups and owners or operators of local facilities. The members will be nominated by the Board of County Commissioners and approved by the CEPR. Membership updates will be provided to the CEPR on an annual basis or whenever there is a change in membership.

Section 1. Qualification. The LEPC consists of those members nominated by the County Commissioners and approved by the CEPR for membership, who are representatives of the various professional and community groups as designated by EPCRA. Members of the LEPC must be residents or conduct business in the jurisdictional area of the LEPC.

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

Section 3. Terms of Office. Membership of the LEPC, once established, will be for a period of four (4) year(s). 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 provided in Article III, Section 2.

Section 4. Inactive Members. Appointed members shall be considered inactive when they have missed more than four (4) consecutive Committee meetings without notification to the Committee Chair or staff office of significant reasons why they were unable to attend meetings. The annual report listing members declared inactive will be provided to the Board of County Commissioners and the CEPR.

Section 5. 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 Commissioners who will make the recommendation to the CEPR for approval.

Section 6. Duties. The LEPC assists established emergency planning offices within the county with planning emergency response and public information as directed by laws.

Section 7. Meetings. The LEPC will meet at least quarterly. 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 (5) members. The special committees meet as the work under their groupings proceeds. An organizational meeting will be held every two years, at the first meeting of the calendar year, for the purpose of electing officers and conducting other business of the LEPC.

Section 8. Quorum. The presence of nine (9) 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 (3) committee members shall constitute a quorum for the transaction of business.

Section 9. Agenda. Any member may request that the Chairperson place an item on the meeting agenda. If the chairperson should decline to do so, a member may have such item placed on the agenda by submitting it in writing to the Chairperson with support signatures of five (5) members of the Committee.

Section 10. Rules of Order. The deliberations of all meetings of the LEPC and its subcommittees shall be governed by Robert's Rules of Order, Newly Revised, or as otherwise agreed by a majority of members in attendance at any meeting.

Section 11. Notice of Meetings. An annual notice of the regular meeting schedule of the LEPC shall be published in a newspaper with regular circulation in Morris County in accordance with SARA Title III (EPCRA). This notice shall specify the meeting designated specifically for the receipt of public comments on the emergency plan.

ARTICLE III OFFICERS

The Officers of the LEPC shall be a 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 1. Nomination and Election of Officers. Prior to the expiration of the officers' terms of service, nomination and election of officers shall occur. Nominations will be accepted from the floor for the positions of 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 2. Term of Office. The term of officers elected at the first organizational meeting held after adoption of these bylaws shall expire on December 31, 2011. Thereafter, the term of each office shall be for a period of two (2) years.

Section 3. 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 be empowered to create such other ad hoc committees as necessary to accomplish the goals of the LEPC or as directed by the Board of County Commissioners of Morris County for the purpose of prevention, protection, response, and recovery in emergency situations.

Section 4. Secretary-Treasurer. The Secretary-Treasurer, in cooperation with the Information Coordinator, is 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 attends to the business needs of the LEPC and maintains an accurate record of all monies received and expended for the use of the LEPC.

Section 5. Information Coordinator/Vice Chairperson. The LEPC shall appoint an Information Coordinator. The Coordinator shall process requests from the public for information under Section 324 (Right-to-Know), including Tier II information under Section 312. Additionally, the Coordinator will assist the Secretary-Treasurer in records management and financial matters. The Information Coordinator shall also serve as the Vice-Chairperson, and perform such duties as may be assigned by the Chairperson. Upon resignation, death, or in the absence of the Chairperson, the Information Coordinator shall perform the duties of the Chairperson.

ARTICLE IV COMMITTEES

Section 1. Executive Committee. The Executive Committee will consist of the Chairperson, Information Coordinator/Vice-Chairperson, Secretary-Treasurer, and any Chairpersons of the standing committees as described in Section 2. 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 may be established, as determined necessary by the Executive Committee:

- A. **Right-to-Know Committee.** This Committee's responsibilities include: 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's responsibilities include: 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. Emergency Response and Resources Committee. This Committee's responsibilities include: development of procedures for identification and communications with hazardous materials facilities located in the planning district; work 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; and review existing federal, state and local plans for the purpose of coordination with the LEPC planning process.
- D. All Hazards Committee. This Committee's responsibilities include: identification of hazards in the planning district that are not related to hazardous materials; recommend procedures to governing units within the planning district for mitigation, preparation, and response to such hazards. This Committee meets at least bi-monthly, and such meetings may be held in conjunction with LEPC meetings. The chair of this committee is the LEPC Chair, unless otherwise nominated and elected as provided in Section 4 below.

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 will be nominated and elected by their respective Committees. Voting shall be conducted as provided in Article III, Section 1, with the terms of offices as provided in Article III, Section 2.

Section 5. Membership of Standing Committees. All members must volunteer to serve on at least one Standing Committee. 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 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.

ARTICLE V

MISCELLANEOUS PROVISIONS

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

Section 2. Indebtedness. All indebtedness incurred by the LEPC will be approved by the Chairperson before payment by the Secretary-Treasurer.

Section 3. Approval of By-Laws. These by-laws shall become effective upon approval by a majority of those in attendance at the organization meeting.

Section 4. Disqualification. Any member who is unable to attend a meeting of the LEPC is responsible for notifying the Secretary-Treasurer or Chair of the LEPC of the member's absence prior to the meeting. Any member with four (4) or more consecutive absences during the calendar year is subject to disqualification at the request of the LEPC to the board of county commissioners and the CEPR.

ARTICLE VI AMENDMENTS

Section 1. Amendments. These by-laws may be amended by a two-thirds vote of members present and voting at any meeting of the LEPC provided that any amendments to these by-laws be submitted to the members in writing at least 72 hours in advance of the meeting. Any member of the LEPC shall have the right to comment on or suggest revision to the by-laws.

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.”

Section 1. Adoption of Rule; Publication of Proposals. The LEPC may, as necessary and proper, adopt rules of general application governing the execution of responsibilities under EPCRA and related applicable regulations. Such rules must first be published in proposed form in *The Council Grove Republican* and *The Prairie Post* not less than 10 days prior to final adoption by the LEPC. Proposed rules are subject to public comment 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 will initially be considered by the Executive Committee, unless otherwise decided by the LEPC. If the Executive Committee, by majority vote approves the proposed rule, it will 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 will review all public comments and prepare a statement that responds to comments and discusses the basis for any appropriate changes to the proposal. The Executive Committee will present such statement to the LEPC. The

LEPC will then vote on the adoption of the proposed rule. If the vote is favorable, the rule will take effect immediately upon the time and date the notice of adoption is first published.

Section 4. Notice of Adoption. Upon adoption of any rule by the LEPC, the Information Coordinator may also 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 may be in the same manner as that for the proposed rule.

Section 5. Emergency Rules. In emergency circumstances, 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.

FINAL RULES

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 the request under this section, provided 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 in an amount which will enable the LEPC to recover all reasonable expenses associated with processing the request.

Copies of the LEPC bylaws, proposed rules, or rules shall be available for inspection and may 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.

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. The Committee will only make requests to specific facilities for information, which it is required to maintain or collect pursuant to applicable law.

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 Committee does not have in its possession the Tier II information requested in subsection D1 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 threshold planning quantities.
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 under subsection D1 of this section includes a general statement of need.

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

**THESE BY-LAWS OF THE MORRIS COUNTY LOCAL EMERGENCY
PLANNING COMMITTEE (LEPC) WERE ADOPTED AT THE REGULAR
MEETING OF THE LEPC ON THE 6th DAY OF NOVEMBER, 2009.**

Ashley Hinkson
LEPC CHAIRPERSON (SIGNATURE)

DATE

Diana Jost
CHAIRMAN, COUNTY COMMISSIONERS (SIGNATURE)

DATE