
BERRIEN COUNTY

LOCAL EMERGENCY PLANNING COMMITTEE (LEPC)

BY-LAWS

Preamble

The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) was enacted by U.S. Congress in 1980 to clean up the nation's hazardous waste sites and to provide for emergency response after a release of hazardous substances into the environment. CERCLA is also called Superfund, and the hazardous waste sites are known as Superfund sites. In response to continuing community concern regarding hazardous materials and chemical release tragedies, a reauthorization and expansion of Superfund was signed into law in 1986. It is known as the Superfund Amendments and Reauthorization Act (SARA). Title III of SARA is the Emergency Planning and Community Right-to-Know (EPCRA).

SARA Title III establishes requirements for Federal, State and local governments, Indian Tribes, and industry regarding emergency planning and "Community Right-to-Know" reporting on hazardous and toxic chemicals. The Community Right-to-Know provisions help increase the public's knowledge and access to information on chemicals at individual facilities, their uses, and release into the environment.

SARA Title III is implemented in Michigan under an Executive Order (2007-18) from the Governor and is enforced by the U.S. Environmental Protection Agency (EPA). In accordance with section 301 of SARA Title III, the Governor established the State Emergency Response Commission (SERC), known in Michigan as the Michigan Citizen-Community Emergency Response Coordinating Council (MCCERCC) or "Council".

The MCCERCC established Local Emergency Planning Committees (LEPC's). Berrien County, Michigan was designated by the MCCERCC as a local emergency planning district. Berrien County's Board of Commissioners appointed the Berrien County LEPC on February 23, 1988.

Article I – Organization

Authority

These by-laws have been adopted pursuant to authority granted by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Superfund Amendments and Reauthorization Act (SARA) of 1986, Title III, and the Emergency Planning and Community Right to Know Act (EPCRA).

Name

This Committee shall be known as the Berrien County Local Emergency Planning Committee (LEPC). Hereafter referred to as "LEPC".

Jurisdiction

The jurisdiction assigned to the LEPC by the Michigan Citizen - Community Emergency Response Coordinating Council (MCCERCC) includes all of Berrien County, Michigan to execute the responsibilities and authorities as prescribed in the federal acts identified under the authority description above.

Status of Committee

The LEPC shall operate as a government entity pursuant to and in strict accordance with all applicable laws, regulations, and ordinances.

Mailing Address and Telephone Number

The official mailing address and telephone number of the LEPC is:

Berrien County Local Emergency Planning Committee (LEPC)
c/o Berrien County Sheriff's Office –
Emergency Management & Homeland Security Division
701 Main Street
Saint Joseph, MI 49085
Phone: (269) 983-7111 ext. 4915
Email: Tier2@berriencounty.org

Article II – Purpose and Mission Statement

Purpose

The purpose of the LEPC is to facilitate the implementation of SARA Title III within Berrien County, Michigan. It will provide information for the development of response plans for spills or releases of extremely hazardous substances that threaten the community or environment. In developing response plans, the LEPC will identify resources to prepare for and respond to a potential chemical accident. The response plans will improve chemical safety, protection of public health, and the environment. Members will work to educate the community and responders in Berrien County.

Mission

The mission statement of the LEPC is “To enhance community resiliency and protect the environment from hazardous materials incidents through planning, preparation, and communication between citizens, businesses, and government”.

Article III – LEPC Membership

Section A Member Composition:

The LEPC shall be comprised of two membership classifications: Primary Membership and Associate Membership.

Primary members will be identified as the principal appointee for each of the below listed disciplinary groups. A minimum of 11 primary members shall be appointed. No more than 43 primary members will be appointed.

Associate members are additional members representing the below groups and serve to assist the principal member within their respective representative groups. The principal members may nominate, and the Chairperson may appoint, any number of associate members the Chair determines is reasonable.

All members are grouped into the following disciplines and principal membership is defined as:

- **Elected State and Local Officials:** 1 Ex Officio Member from the Berrien County Board of Commissioners shall serve as the chairperson of the LEPC and serve as a member. Up to 2 additional members may be appointed to represent the viewpoint and interests of state or local government officials.
- **Law Enforcement:** At least 1, but no more than 3 members, will represent the interest of local law enforcement (local State Police Post, Sheriff's Office, or Municipal Police Department) will serve as primary members. It is highly recommended that these members be endorsed by the Berrien County Police Services Council (PSC) and provide regular reports to the PSC.
- **Emergency Management:** The Berrien County Emergency Management Coordinator and Assistant Emergency Management Coordinator shall serve as Ex Officio members. Two additional emergency management professionals may be appointed to serve as members.

- **Fire Fighting:** At least 1, but no more than 3 members, will represent the interest of local fire response; to include hazardous materials incident response, and shall serve as primary members. It is highly recommended that members be endorsed by the Berrien County Fire Chief's Association and/or the Berrien County Firefighters Association and these members give regular reports to both of these Associations.
- **First Aid, Hospitals and Health:** At least 1, but no more than 3 members, will serve to represent the interest of health scientists, public health, and emergency medical providers – such as doctors, medics, or other individuals practicing emergency medicine.
- **Hospitals and extended medical care:** At least 1, but no more than 3 members, will represent the disciplines of hospital operations, health care accreditation standards, patient care, long term care, or medical control.
- **Local Environmental:** At least 1, but no more than 3 members, will serve to represent the interest of environmental health, brownfield redevelopment, industrial hygiene, spill remediation, environmental technology, environmental protection, hazardous waste management, or other areas related to protecting the local environment to include parks or public works professionals who have duties related to environmental protection.
- **Transportation Personnel:** At least 1, but no more than 3 members, will serve to represent the interests of transportation providers for mass transit, transportation infrastructure agencies (such as Road Department or local MDOT garages), and specialized transportation providers (for passengers needing additional access accommodations).
- **Broadcast and Print Media:** At least 1, but no more than 3 media professionals, or members who directly provide information to the public related to the community right to know act, or are responsible for providing emergency alert system or similar broadcasts.
- **Community Groups:** At least 1, but no more than 3 members, will represent established community groups with an interest in SARA Title III implementation. If no established groups have petitioned for application, then this group may be represented by an individual that has no such affiliation to a community group and act as an interested community member.
- **Industry subject to SARA III and their workers:** At least 1, but no more than 3 members shall represent the interests of facilities or workers of facilities who are subject to SARA III.
- **Education:** The education group is allowed up to 3 principal members, but is not required to have any members. Education members shall represent the interest of pre-school, private or public schools, and universities or colleges. It is recommended that education facilities that are identified through LEPC plans as being proximal to a facility subject to SARA III should be given preference to membership in this group.
- **Agriculture:** The agriculture group is allowed up to 3 principal members, but is not required to have any members. Agriculture may be represented by farmers/producers, farming advocates/associations, specialized insurance bureaus, suppliers/applicators, or by farming facilities that could be impacted by facility subject to SARA III due to proximity.
- **Native American Tribal Government:** Established tribal governments having an interest in SARA III implementation within Berrien County are allowed up to 3 principal members, but are not required to have any members.

Section B Membership Applications:

Application to LEPC Membership is open to any interested person. The names of the applicants will be forwarded to the LEPC chair to be assessed as qualified (as addressed in Section A above), and if so, nominated as described below.

The Chair will develop a standard operating procedure for accepting applications.

Section C Nominations:

New nominations will be presented at each November LEPC meeting. If the November meeting is canceled, for any reason, nominations will be presented at the next available meeting. A Nominating subcommittee shall be formed at least one month prior to the November nominations. Members of the Nominating subcommittee will be appointed by the Chairperson.

The nominating subcommittee shall recommend individuals from each of the representative groups described in section A for nomination. Nominations will be presented to the primary membership for consent and approve presentation to the Chair. The Chair will, in turn, take these nominations to the Executive Subcommittee for final review and selection. Individuals must be formally nominated to the State Emergency Response Commission (MCCERCC) in writing, listing the name, address and community group that each nomination represents. The Chairperson will forward his/her membership appointment recommendations, as decided with the Executive Subcommittee, to the MCCERCC which then acts on those nominations.

Section D Membership Appointments:

The membership of the LEPC shall be appointed by the Michigan Citizen -Community Emergency Response Coordinating Council as recommended by a vote of the LEPC Executive Committee. Acceptance letters will be sent to those representatives approved by MCCERCC through the LEPC's Secretary.

Section E Membership Terms and Vacancies:

Members shall serve 3-year terms and be re-nominated at the November LEPC meeting in the year they expire. Each term will run from January 1 through December 31. There are no limits to the number of terms a member may serve as long as their membership is reaffirmed by the Chair and the MCCERCC. Ex-Officio members serve terms designated by their respective appointing body.

Vacancies shall be appointed by the Chair at the earliest possible time and new appointees' names shall be sent to the MCCERCC for approval and will serve the remainder of the predecessor's term. If no successor can be appointed, it shall remain unfilled until the beginning of the next term. A resignation of a member is not effective until it has been accepted by the Chair and the MCCERCC and/or by the appointment of a successor.

In the event of a vacancy within any given representative group listed in section A, the LEPC must show a good faith effort to fill the vacancy. Such a vacancy does not constitute dissolution of the committee, nor invalidate a quorum to conduct business.

Section F Attendance:

Regular meeting attendance is considered essential to the functionality of the LEPC and the attendance record of each member shall be reviewed annually.

All primary members are expected to attend regular meetings. Upon notification of their intended absence to the secretary, a member may be excused from a meeting for good cause. The secretary will promptly notify the chairperson to have the absence deemed to be excused or unexcused. The secretary will conduct a roll call attendance at the beginning of each meeting.

Section G Termination of Membership:

All resignations must be submitted in writing to the Secretary who will deliver it promptly to the Chairperson. The Chairperson will notify the Committee, and the MCCERCC, of all resignations. Additionally, the chair will notify the Berrien County Board of Commissioners of resignations or vacancies of any LEPC Officer position.

Section H Expulsion of Membership:

If a member is absent for three (3) or more meetings per calendar year; except for excused absences, that member shall be subject to expulsion from the Committee. Upon this occurrence, the Chairperson will send a letter to the member asking for his/her resignation

from the committee. If he/she wishes to remain a member of the committee, the member will submit in writing the reason(s) why they should be allowed to remain a member. During a regular business meeting, the membership will decide by a 2/3 vote (of the serving members present) if the member should remain on the committee. If the member wishes to terminate membership, the procedure outlined in section G will be followed.

Article IV – Officers and Responsibilities

Chairperson:

The LEPC Chairperson shall be a Commissioner of the County Board of Commissioners and is appointed by the Chairperson of the Board of Commissioners after following proper County Board procedures. In the event of a vacancy in this position and an absence of a Vice-Chair, the Chairperson of the County Board of Commissioners shall serve as the LEPC chairperson until the vacancy is filled.

The Chairperson's responsibilities include:

- Open and conduct LEPC meetings,
- Approve the meeting agenda,
- Maintain the authority to sign and execute contracts on behalf of the LEPC,
- Authenticate LEPC proceedings by signing the minutes,
- Appoints subcommittees and respective chairs,
- Votes only in tie-breaking circumstances.

Vice-Chairperson:

The LEPC Vice-Chairperson shall be appointed by the Chairperson of the Board of Commissioners after following proper County Board procedures. The Vice-Chair can be an employee of the County of Berrien or may be a Commissioner of the County Board.

The Vice-Chairperson's responsibilities include:

- Assumes the roles and responsibilities of the chairperson in the chairperson's absence or request.
- Serves as a parliamentarian during meetings.

Secretary:

The Secretary shall be appointed by the LEPC Chairperson.

The secretary is responsible for the following:

- Prepare public notices as prescribed by the Open Meetings Act (OMA) (PA 267 of 1976. [15.265(1)].
 - Post public notice of the LEPCs regular meeting calendar for the year no later than 10 days after the first meeting of the year.
 - Make public notice of any calendar change within 3 days after the change is made.
 - Prepare notice of cancellation of meetings.
- Prepare and distribute the meeting agendas at the direction of the Chairperson.
- Prepare and keep legible permanent records (e.g., the minutes) of LEPC proceedings.
 - Authenticate the proceedings by signing the minutes.
 - The Secretary will make the proposed minutes of the LEPC available within eight (8) business days after the meeting in accordance with the OMA (15.269).
 - Approved minutes will be made available for public inspection by the Secretary within five (5) days after they are approved.
 - The secretary is responsible for filing and preserving minutes as a public record.
- The Secretary shall assist the Information Coordinator and Community Emergency Coordinator as needed.

County Emergency Management Coordinator:

The County of Berrien Emergency Management Coordinator shall be appointed by the Sheriff and is the designated Community Emergency Coordinator. The County Emergency Management Coordinator may name a Deputy or Assistant Emergency Management Coordinator as a designee in the event of absence from a meeting.

The Emergency Management Coordinator is responsible for the following:

- Assumes the roles and responsibilities of Vice-Chair in the event of a vacancy of the Vice-Chair, or in an event requiring the Vice Chair to assume the role of Chairperson.
- Coordinate the development and implementation of site-specific hazardous materials emergency response plans.
- Develop Standard Operating Procedures for the implementation of SARA Title III for the LEPC.
- Act on behalf of the LEPC to develop procedures to receive immediate notification regarding hazardous materials’ releases, subject to SARA Title III in Berrien County.
- Incorporate relevant information from LEPC plans into the Counties Emergency Operation Plan, where appropriate.
- Serves as a Sergeant at arms at meetings.
- Supervise and manage the required activities of the Information Coordinator and Secretary between meetings.
- Note: The Local Emergency Management Coordinator receiving federal EMA funding can accept any officer position, but not more than two at the same time.

Information Coordinator:

The Information Coordinator shall be appointed by the Chairperson of the LEPC.

The Information Coordinator is responsible for:

- Receiving, organizing, and maintaining facility reports as required under SARA Title III.
- Process all information requests from the public.
- Prepares a planning template for use and enters initial data into the plan
- Presents plan and routine data to the LEPC for coordination.
- Reporting activity to the County Emergency Management Coordinator.
- Transmits completed plans to local response organizations and the Berrien County Public Safety Communication Center.

Executive Subcommittee:

The Executive Subcommittee shall include the Chairperson, Vice-Chairperson, Secretary, County Emergency Coordinator and Information Coordinator. The Executive Subcommittee meetings will occur after the regularly scheduled LEPC meetings at the discretion of the Chairperson.

Article V – Meetings

Section A: Meeting Schedule and Notification

Regular meetings will be held as determined by the Chair. A calendar will be proposed by the Secretary and approved by the members each November. A public notice stating the dates, times and location of LEPC regular meetings shall be posted within ten days after the first meeting of each calendar or fiscal year. The LEPC shall hold meetings of its members at least quarterly.

The LEPC membership will be provided the agenda and any attachments, via email, a week prior to each scheduled meeting. The meeting location shall be held in a place available to the general public. No person may be excluded from a meeting except for instances of an actual breach of the peace occurring at a meeting (pursuant to the Open Meeting Act at MCL 15.263(6)), or where an individual’s presence is prohibited by law or a court order.

The Chair may cancel a meeting due to schedule conflicts or emergency situations.

Section B Special Meetings:

Special meetings of the LEPC may be called by the Chairperson or by majority vote of the Committee.

Section C Conduct of Meetings:

All meetings will be conducted with respect, order and decorum. The LEPC will follow the procedure determined appropriate by the Chairperson. An offer of “reasonable accommodation” must be extended to anyone wishing to attend any LEPC proceeding as stated in the Federal Americans with Disabilities Act of 1990. Except as otherwise noted, all meetings shall be conducted in accordance with the most current edition of Robert’s Rules of Order.

All meetings are subject to the Open Meetings Act, Act 267 of 1976.

Moreover, all LEPC rules and bylaws will be consistent with state and federal law, where applicable. In descending order, the law will take first precedence over any inconsistency, with Committee Bylaws taking precedence over Committee rules or procedures. An inconsistent provision shall be void and considered severable, leaving the remaining rules or bylaws in full force and effect.

Section D Agenda:

An agenda shall be prepared by the Secretary for all regular meetings. The agenda will include a list of all matters to be considered at the meeting. Each meeting agenda will be included in the meeting reminder one week prior to the meeting date. LEPC members may place items on the agenda by contacting the Secretary 8 days prior to the meeting. The agenda shall include a public comment section; each individual who wants to speak during the public comment section is allowed a two-minute time limit. Only the Chairperson has the discretion to allow an extension of time for a public comment beyond the two-minute limit.

Section E Minutes of Meeting:

The proposed minutes of the LEPC meetings will be published and distributed to members within eight (8) business days after the meeting, via email or other correspondence, in accordance with the Open Meetings Act, Act 267 of 1976.

Section F Quorum-Voting:

The powers of the committee shall be vested in the Committee. The presence of one third (33 and 1/3%) or more of the serving primary members of the LEPC shall constitute a quorum for that meeting. Associate members will not vote. Each authorized primary member shall have one (1) vote. No absentee ballots, nor proxy voting, will be permitted. Decisions on any question at an LEPC meeting shall be made by majority vote of the members present. When a roll call vote is called by the Chair, the detailed results shall be recorded in the minutes.

Section G Public Participation:

Any person who desires to present a statement on an agenda matter shall be afforded an opportunity to present statements to the LEPC provided that a written statement was submitted at least five (5) days before the meeting pertaining to that agenda matter. Any person who desires to present an oral statement during an LEPC meeting without first providing a written statement at least five (5) days before the meeting may do so during the two-minute public comment section. The Committee will not act on public comment.

Any person(s) wishing to receive notice of the progress of an LEPC matter shall request, in writing, that the Chairperson provide such notice. Thereafter, the Chairperson shall give the person sufficient notice that the issue will be on an upcoming or future agenda to permit participation.

Copies of approved LEPC meeting minutes will be available at the County Clerk’s office.

Article VI – Subcommittees

The number and type of subcommittees that the LEPC creates, as appointed by the Chairperson, is solely based on the needs of the LEPC and its members. Subcommittee members may invite participation and hear opinions of non-LEPC members as they deem necessary.

Objectives for each subcommittee will be written and approved by the Chairperson of the LEPC. Any subcommittee recommendation shall be submitted to the LEPC, in writing, for appropriate action and/or assistance. Each subcommittee shall maintain agendas, minutes, and voting rolls of meetings they conduct and shall coordinate with the Secretary to ensure compliance with the Open Meetings Act. Such coordination should be through a Deputy Secretary that each subcommittee shall appoint.

Article VII – Governance

The Chairperson of the LEPC shall submit nominations for LEPC membership in the manner requested by the MCCERCC. The Michigan Department of State Police/Emergency Management Homeland Security Division (MSP/EMHSD) is the administrator of all emergency planning provisions and serves as Chair of the MCCERCC, and oversees all LEPC activities. All report and community right-to-know provisions are administered by the DEQ.

Article VIII – Inspection of Public Records

Any site-specific plans in the possession of, or retained by the LEPC, or any writing prepared, owned, used, or retained by the LEPC shall be made available to the public in accord with the Freedom of Information Act (Act. No. 442 of the Publics Acts of 1976) and the Berrien County FOIA Policy. All records of the LEPC shall maintained by the Secretary. All FOIA requests shall be coordinated with the FOIA Coordinator of Record for the County of Berrien. Records will be maintained according to the County of Berrien’s Record Retention Policy. The Berrien County Sheriff’s Emergency Management Division will retain LEPC plans and financial records as specified by terms established in any adopted grant agreement(s).

Article IX – Correspondence

All official LEPC correspondence shall be submitted to the secretary and be approved by the executive committee before it is issued to the intended party. Any receipt of correspondence addressed to the LEPC shall be promptly filed with the secretary and information coordinator.

Article X - Distribution of LEPC Plans

Each site -specific plan that is developed will be distributed as a controlled copy to the fire chief with jurisdiction, the LEPC Information Coordinator, the LEPC Emergency Coordinator, the HazMat Team Director, and the Berrien County Environmental Health Director. The LEPC will remain the owner of the plan and public requests to view the plans shall be made in accordance with Article VIII.

Article XI – Amendments

The LEPC shall have the power to amend these bylaws in the following manner:

- Written notice containing the proposed amendment(s) shall be sent to each member of the LEPC at least thirty (30) days in advance of a regular meeting and prior to the date set for voting on such amendment(s).
- To be approved, amendments must receive a majority vote.
- Amendments to the Bylaws must be approved by the Berrien County Board of Commissioners.

Filing of Bylaws and Amendments to Bylaws shall be provided to the Board of Commissioners of Berrien County, the County Clerk, and the MCCERCC.

Article XII – Effective Date

These bylaws shall be effective when signed by the Chair and Vice-Chair of the LEPC, Chair of the Berrien County Board of Commissioners and the Berrien County Clerk, after a resolution approving these bylaws has been adopted by the County Board of Commissioners.

**ADOPTED BY THE BERRIEN COUNTY LOCAL EMERGENCY
PLANNING COMMITTEE (LEPC) on this date: ___April 23, 2019___**

Chairperson, LEPC

Vice-Chairperson, LEPC

DATE: _____

**Chair, Berrien County Board of
Commissioners**

Berrien County Clerk

Approved: February 23, 1988
Revised: October 25, 1988
Revised: January 20, 1998
Revised: March 16, 2015
Comment Draft: February 22, 2019
Revised: March 1, 2019