

**Albuquerque/Bernalillo County  
Local Emergency Planning Committee**  
Inception 1/87

***Mission***

To support Albuquerque/Bernalillo County Office of Emergency Preparedness to keep the community safe from the effects of hazardous materials in order to assure effective response to hazardous materials emergencies.

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.

**By-Laws  
Revised 2/28/2007**

**ARTICLE 1**

**SECTION 1.** Name – The name of the organization shall be “Albuquerque/Bernalillo County Local Emergency Planning Committee,” hereinafter referred to as the “LEPC”.

**SECTION 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, 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 Emergency Operation Center Standard Operating Procedures (EOC SOP) for Albuquerque/Bernalillo County.

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 State Emergency Response Commission (SERC), or Albuquerque/Bernalillo County.

**SECTION 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, and has appointed a Local Emergency Planning Committee for Albuquerque/Bernalillo County. It 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 and to develop and maintain the EOC SOP.

Pursuant to SARA Title III, the LEPC has adopted the by-laws contained herein.

## **ARTICLE II**

### **MEMBERSHIP INFORMATION**

**SECTION 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. Prospective members shall be in good standing with the Albuquerque/Bernalillo community.

**SECTION 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 election.

**SECTION 3.** TERM-Term of elected officers shall be two (2) years (Article IV, Section 2). 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.

## **ARTICLE III**

### **ORGANIZATIONAL INFORMATION**

**SECTION 1.** CLASSES OF MEMBERSHIP-The membership of the Albuquerque/Bernalillo County LEPC shall consist of community and industrial members, as defined by SARA Title III (see Article I, Section 3).

Active Members: Those members, organizations, and/or their designees who by their registration status agree to participate in a minimum of 75% of all meetings shall have voting privileges.

Associate Member: Those members, organizations, and/or their designees who by their registration status, choose to participate in all meetings on an at will basis, and do not have voting privileges.

**SECTION 2. 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.

Vice Chairperson-Upon resignation, death, or 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 shall succeed the Chairperson.

Second Vice Chairperson-upon resignation, death, or 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.

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.

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 public notice of meetings, training opportunities, and outreach activities. Additionally, the secretary shall attend to the business needs of the LEPC.

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

Information Coordinator - The LEPC will appoint an Information Coordinator. This person will process requests from the public for information under Section 324, including Tier Two information under Section 312. The Coordinator will assist the Secretary-Treasurer in records management and financial matters. The Information Coordinator will be a non-voting member of all committees of the LEPC.

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 a majority.

**SECTION 3. 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; establishing the LEPC annual goals; reviewing the LEPC plan semi-annually.

Finance – This subcommittee will be responsible for supporting recommendations for LEPC funding and will work in conjunction with the Treasurer in maintaining a proper accounting system. From annual subcommittee submittals by September 1, the Finance Subcommittee must prepare and submit an annual budget to the Executive Committee by October 1. The budget must be approved by the Executive Committee by November 1, for enactment January 1. This subcommittee will also submit grant funding proposals to bring in additional funds to the LEPC.

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

Training and Exercise – This subcommittee conducting a training needs assessment; requesting training grants to provide needed training; coordinating training programs; establishing an exercise schedule.

Executive – This subcommittee is responsible for appointing chairpersons for each subcommittee; developing LEPC long term goals; tending to LEPC member needs; 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.

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’ updating the local Resource inventory’; identifying other volunteer or in-kind assistance contributions, which may be used for various types of response.

Emergency Response – This subcommittee is responsible for assisting in the development of emergency response procedures for local government personnel that may be utilized in hazardous material responses; reviewing and commenting on local Incident Command System (ICS) procedures to assist in strengthening and coordinating local government emergency response.

Business/Industry Outreach – This subcommittee is responsible for developing initiatives that will encourage active participation by the community’s commercial businesses and industrial facilities.

Meetings– The standing subcommittee Chairperson will determine the number of meetings to be held, as deemed necessary by the goals of the standing subcommittee. Agendas of minutes of the previous meeting will be distributed in advance to all members of the standing subcommittee and LEPC Secretary.

**SECTION 4. 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 and subordinate members shall be appointed by the LEPC Chairperson.

## **ARTICLE IV**

### **MEETING INFORMATION**

**SECTION 1. GENERAL INFORMATION** - The types of meetings conducted by the LEPC are defined further in the Article. Requirements for all meeting are as follows:

Public notice of all meetings must be posted in accordance with NMSA, 1978, Section 10-15-1 through 10-15-4, of the New Mexico Open Meetings Act. Public notice of LEPC meetings will be posted on the internet, announced during presentations, and advertised in print media when available. The public is invited to all meetings held by the LEPC.

A quorum shall be defined as a majority of the Executive Committee and a minimum of four (4) other active members for all meetings.

A written notice (including e-mail) shall be sent to all LEPC members at least seven (7) days in advance of scheduled 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.

All meetings will be conducted in accordance with Robert’s Rules of Order and by LEPC By-Laws.

**SECTION 2. ANNUAL** – An annual meeting will be held in January, 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.

The Treasurer will be elected in odd years. Beginning in 2004, the Secretary will be elected in even years. The Vice Chair shall be elected annually. (Article VI, Section 8 Elections)

**SECTION 3. EMERGENCY** – 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 posting 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.

## **ARTICLE V**

### **FISCAL INFORMATION**

**SECTION 1. GENERAL INFORMATION** – The LEPC may receive and disburse funds for the purpose of implementing the Emergency Planning and Community Right-To-Know Act of 1986, in Albuquerque/Bernalillo County.

**SECTION 2. FUNDS** – Funding sources for the LEPC: (1) Monies from government entities will be deposited in the LEPC account and the Treasurer will act as the fiscal agent and provide any reporting as necessary; (2) Monies received from non-government entities, including industry and other private donations or fines shall be deposited in the LEPC checking account and the Treasurer will act as the fiscal agent who is responsible for all LEPC reporting; (3) Grant monies will be deposited in the LEPC account and used for the specific purposes defined in the grant; the Treasurer will act as the fiscal agent and provide any reporting as necessary; (4) Monies from hosting conferences or seminars or being the fiscal agent for conferences and seminars will be deposited in a LEPC account.

**SECTION 3. EXPENDITURES** –Expenditures will be made as funds are available and approved by the Executive Committee with a minimum of two (2) signatures (as designated by the Executive Committee) for disbursement.

**SECTION 4. REPORTING** –Semi-annual financial reports will be made to the Executive Committee or as requested by the Executive Committee.

**SECTION 5 FISCAL YEAR** – The fiscal year shall be considered to run from January 1 to December 31.

## **ARTICLE VI**

### **ORGANIZATIONAL RULES INFORMATION**

**SECTION 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 the Article.

**SECTION 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 displayed on the bulletin board of 11510 Sunset Gardens SW and 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 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 (unless the LEPC determines otherwise).

**SECTION 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 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. ADMENDMENTS** – These by-laws 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 by-laws be submitted to the members in writing at least ten (10) days in advance of the meeting (Article VI, Section 2). By-laws and membership list will be submitted as needed to the SERC by hand or certified mail. The new by-laws will also be sent to the Public Regulatory Commission to be recorded.

**SECTION 7. PARLIAMENTRY AUTHORITY** – The rules contained in Robert’s Rules of Order, Newly Revised, shall govern the LEPC in all cases to which they are applicable and in which they are not inconsistent with these by-laws.

**SECTION 8. ELECTIONS** – Nominations will be made and posted 30 days prior to the election. Election voting will be done at the Annual meeting. The victor will be determined by a simple majority vote, and announced prior to the end of the meeting.

## **ARTICLE VII**

### **REGULATORY RULES INFORMATION**

**SECTION 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 2. PUBLIC NOTIFICATION AND GENERAL PARTICIPATION**

The LEPC shall publish notice of all meetings on the bulletin board at 11510 Sunset Gardens SW and 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, color, national origin, sex, religion, age, or disability. 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.

Not less than once each calendar year, preferably around the annual meeting, the LEPC will publish in a newspaper of general circulation and the LEPC's internet site, in the Albuquerque/Bernalillo County area, 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 and shall publish, in the manner described in, Article VI, responses to major issues raised in such public comments. Nothing herein shall require the LEPC to respond to all comments received. However, the LEPC shall acknowledge receipt of such comments.

### **SECTION 3. PUBLIC PARTICIPATION PLANNING PROCESS**

Following the completion of a draft EOC SOP, meeting the requirements for the Community Right to Know for Publications, the LEPC shall inform the author of the draft EOC SOP to:

1) publish in at least one (1) newspaper of general circulation, and the LEPC's internet website, in Albuquerque/Bernalillo County notice of the availability of the plan for public inspection and review. Such notice shall appear on at least two (2) occasions no closer than three (3) calendar days apart.

2) publish notice, in the manner described in the preceding subsection, of no fewer than two (2) public meetings to accept oral comments on the draft plan and hold such meetings.

3) publish notice, in the manner described in the preceding subsection, of no fewer than two (2) public meetings to accept (oral or written) comments on the draft plan for no less than 15 days following the last scheduled public meeting. Such notice shall identify a person designated by the Chairperson to receive such comments.

#### **SECTION 4. 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.

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, staff time, mailing or delivery charges. Rates shall be set from time to time by the Secretary, with the approval of the Executive Committee. These rates shall be 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 Secretary.

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 Secretary shall refer the requestor to the appropriate owner or operator.

**SECTION 5. 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. Other than a claim designated in this section, the LEPC will not honor any business confidentiality or Trade Secret Claim. Pursuant to Section 312 and Section 324(a) of SARA Title III, 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 SARA Title III 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 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.

## **SECTION 6. DISTRIBUTION OF EOC SOP**

One copy of the plan shall be distributed by either the author of the EOC SOP or the LEPC, to the following persons or entities as per the categories stated:

### **MANDATORY DISTRIBUTION AT NO CHARGE TO RECIPIENTS:**

- A. SERC
- B. Regional Liaison office, Division of Emergency Management
- C. City/County Emergency Coordinators
- D. Albuquerque/Bernalillo County LEPC Executive Committee and SERC recognized members
- E. One (1) each in the City of Albuquerque's public libraries in the four (4) City quadrants and two (2) each in unincorporated areas of Bernalillo County's public libraries

### **UPON REQUEST AT NO CHARGE TO RECIPIENTS:**

- A. Organizations contributing sections to the plan
- B. Adjacent county LEPC's

### **UPON REQUEST AND CHARGES PAID IN ADVANCE BY RECIPIENTS:**

- A. Other distribution of the plan may be made as copies are available by the Secretary at the sole expense of such individual or organization as outlined in Article V.
- B. Request for copies of the plan from the general public shall be provided of the Albuquerque/Bernalillo County LEPC and through a copy available at the Office of Emergency Management, 11510 Sunset Gardens SW, Albuquerque, New Mexico.

The plan will be reviewed annually by the Albuquerque/Bernalillo County LEPC.

Updates will be provided as they become available.

A list of the distribution of all copies of the plan will be made by the Secretary. As the plan is revised, updates to the plan will be distributed at no cost to the members of the LEPC. Copies of plans identified above will be provided upon written request and at the sole expense of such requestor, as outlined in Article VII, Section 6, of these rules.