

## **THE BRAZORIA COUNTY LOCAL EMERGENCY PLANNING COMMITTEE (LEPC)**

### **ARTICLE I**

#### **NAME AND PURPOSE**

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

**Section 2.** Purpose: The purpose of the LEPC is:

A. To carry out for Brazoria 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, reviewing, training and testing of (a) hazardous substances emergency response plan(s) for jurisdictions within Brazoria 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. Approved members of the LEPC shall be a TIER II reporting entity that manufactures or is responsible for moving hazardous materials via pipeline, in Brazoria County. Members will also be planners and responders from the larger municipalities in Brazoria County. Hospitals, Independent School Districts, and other civic groups are also encouraged to attend.

**Section 2.** Officers: Officers shall be elected to conduct meetings, appoint subcommittees, keep minutes, manage funds, and to otherwise accomplish the work of the committee.

**Section 3.** Terms of Office: The officers of the LEPC, once elected, will be for a period of two years. Approved members may be selected to succeed themselves or to move to other positions within the LEPC. No term limits are established for this jurisdiction. The term of office shall be as provided in Article III, Section 3.

**Section 4.** Vacancies: Any vacancy occurring in the LEPC by reason of the resignation, death or disqualification of an approved 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: There shall be at least 4 (four) regular meetings of the committee per year. Regular meetings shall commence at 11:00AM on the first Tuesday of the second month of each quarter and will be held at various locations within Brazoria County as selected by the Chairperson. The Executive Committee *may* call special meetings of the LEPC at such time and place as they may determine. The Chairperson must call a special meeting of the LEPC upon the written request of five members. The standing and ad hoc committees shall meet as the work under their groupings proceeds.

**Section 7.** Quorum: The presence of at least twenty approved members of the LEPC at the opening of the meeting shall constitute a quorum for the transaction of business by the LEPC. To approve minutes from previous meeting, only a vote of the majority of approved members present is required. Only the approved members can make motions or vote. 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 the Chairperson, Vice-Chairperson, Secretary and Treasurer who shall be elected by the committee in a manner herein provided. All officers shall be approved 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. 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. Elections should occur at the next business meeting after the acceptance of these bylaws. Elections will occur during the first quarter meeting of each year, thereafter. Should a position become vacant unexpectedly, election to fill that position shall occur at the next business meeting following announcement of the vacancy.

**Section 3.** Term of Office: The term of the officers elected at the organizational meeting expired on December 31, 2015. Thereafter, the term of the officers shall be for a period of two years.

**Section 4.** 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.

**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: The Secretary in cooperation with the Information Coordinator shall be the custodian of all 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. Additionally, the Secretary in conjunction with the Information Coordinator shall attend to the business needs of the LEPC.

**Section 7.** The Treasurer: The Treasurer shall maintain an accurate record of all monies received and expended for the use of the LEPC. Additionally, the Secretary in conjunction with the Information Coordinator shall attend to the business needs of the LEPC.

**Section 8.** Information Coordinator: The LEPC will appoint an Information Coordinator. The coordinator shall process requests from the public for information under Section 324, including Tier II information under Section 312. The Information Coordinator shall be a non-voting member of all committees and the LEPC. The Brazoria County Office of Emergency Management is encouraged to serve in this role.

## **ARTICLE IV**

### **COMMITTEES**

**Section 1.** Executive Committee: The Executive Committee will consist of the Chairperson, Vice-Chairperson, Secretary, Treasurer and Chairpersons of the four Standing Committees as described below. The Information Coordinator shall serve as a non-voting member of this Committee. 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 shall be established:

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 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. Facilities Liaison Committee. This Committee shall be responsible for procedures that identify and communicate 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. In short, this committee will work to include more entities participating in the LEPC and maintain participation from current entities.

D. Emergency Response and Resources Committee. This Committee will work with the 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 the purpose of coordination with the LEPC planning process.

**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 shall be nominated and elected by their respective Committees. Voting shall be conducted as provided in Article III, Section 2.

**Section 5.** Membership of Standing Committees: All approved members *must* volunteer to serve on at least one Standing Committee and shall not serve on more than two Standing Committees. 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 representation to carry out their assigned tasks.

**Section 6.** Ad Hoc Committees: The Executive Committee 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 shall be approved by the Executive Committee (or LEPC) before payment by the Secretary Treasurer.

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

**Section 4.** Disqualification: Any approved member who is unable to attend a regular meeting of the LEPC shall notify the Secretary or Information Coordinator. Any approved member with four or more absences over a two year period is subject to being disqualified at the request of the LEPC to the County Judge and the SERC.

**Section 5.** Reporting Releases: The procedure for reporting releases by facility owners and operators shall be:

1. The initial report of the release must be called into the Brazoria County Sheriff's Office Dispatch (979) 864-2392.
2. A follow-up written report must be sent to the Brazoria County Office of Emergency Management.
3. These procedures must be reviewed annually.

**Section 6:** Record Retention: The LEPC will retain records in accordance with the following schedule.

1. Meeting minutes with sign-in log: current year plus two previous years.
2. TDEM-151, LEPC Membership Form: Current plus previous submittal
3. TIER II Reports: Current year plus two previous years
4. Release Reports: Current year plus two previous years

Freedom of Information Act inquirers should be advised that TIER II and Release Reports are available from the State of Texas for the previous 30 years.

**Section 7:** Upon the dissolution of the Brazoria County LEPC, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code or shall be distributed to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

## **ARTICLE VI**

### **AMENDMENTS**

**Section 1.** Amendments: These bylaws may be amended by a two-thirds vote of members present and voting at any regular meeting of the LEPC provided that any proposed amendments to these bylaws, be submitted to the members in writing at the regularly scheduled meeting, immediately preceding that 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 by-laws.

**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 less 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 board located on the Brazoria County internet web page. (The proposed rule together with the statement of basis and purpose are here-after referred to as “notice of proposed rulemaking”.) Such 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, which responds to comments raised and discusses the basis for any appropriate changes to the proposal. The Executive Committee shall present such statement from 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 also shall publish the LEPCs 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 of 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 will remain 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 not inconsistent with these bylaws.

Attachment: 1. Brazoria County LEPC Final Rules

## **BRAZORIA COUNTY LOCAL EMERGENCY PLANNING COMMITTEE (LEPC) FINAL RULES**

### **I. Definitions**

Unless otherwise stated, all terms herein shall be defined in accordance with the definitions provided in the Title III of the Superfund Amendments and Reauthorization Act of 1986, PL 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, and all subcommittee meetings, on the public bulletin board located on the Brazoria County Web Page Texas, 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 of time at the beginnings of each regular monthly meeting to accept oral public comments on any aspect of the LEPCs mission or functions.

**C.** Not less than once each calendar year, the Chairperson shall cause to be published via the internet and applicable social media, a notice that written public comment is invited during a thirty-day period on any aspect of the LEPCs 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 LEPCs 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 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 inter-jurisdictional 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 will strive to work with the local governments, which are responsible for the emergency management plans, which cover the areas of LEPC responsibility.

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. Their primary focus should be on those parts of the plan, which cover the following categories: warning, population protection, emergency public information, resource management, and HAZMAT response.

2. The LEPC shall evaluate the need for financial resources necessary to develop and implement the emergency plan and all activities of the LEPC required by law; and shall make recommendations with respect to additional financial 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 the Safety Data Sheet (SDS) 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, at a level 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 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 SDS and Other Non-Confidential Information**

1. Any person may obtain an SDS 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 SDS or other information requested in subsections C1 or C2 of this section, it shall request submission of the SDS from the owner or operator of the facility, that is the subject of the request. The Committee will only make requests for 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.

#### **V. 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 confidentially 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.