



TO: Butler County Board of County Commissioners

FROM: Butler County Emergency Management on behalf of the Butler County Local Emergency Planning Committee (LEPC)

RE: Summary of 2019 Updates to LEPC Bylaws

Following the annual review of the LEPC Bylaws, the following changes have been voted on and approved by the LEPC membership. They are now being submitted for the BOCC's review and Chair's signature:

1. Clean-up of Terminology

a. *"Tier 2" versus "Tier II"*

Inconsistencies were identified in how these hazardous materials reports were referenced in the Bylaws. In some cases, they were referred to as "Tier 2" reports, while in other instances they were referred to as "Tier II" reports. For consistency, references to "Tier 2" were changed to "Tier II" in the following places:

- i. Footnote at the bottom of page 1
- ii. Bottom of page 2 in the "Information Coordinator" paragraph
- iii. Paragraph header at the top of page 3
- iv. In the first paragraph of page 3

2. Clean-up of Grammatical and Typographical Errors

a. *References to "SARA Title III"*

In two different areas, the legislation that governs LEPC activities (SARA Title III: The Emergency Planning and Community Right to Know Act) was accidentally referenced as "Title II" instead of "Title III." That has been corrected on the following places:

- i. Appendices: page A-II, first paragraph of the "Emergency and Hazardous Chemicals Inventory Form" section
- ii. Appendices: page A-7, in the "Commission on Emergency Planning and Response" paragraph

b. *Other Grammatical / Typographical Errors*

Two misspellings or incorrect word choices were identified and changed in the following locations:

- i. The word "know" was changed to "known" in the Appendices: page A-5, item #1 under the "Denial of requests..." sentence ("Responding to a Request for Information" section).
- ii. The word "quantify" was changed to "quantity" in the Appendices: page A-6 in the "Emergency Notification of Emergency Release Notification" section (in the Glossary of Terms)

Keri Korthals, KCEM, MEP, NRP, Director
Tanner Brown, Deputy Director

3. Change of LEPC Procedures

a. Change to meeting notification procedures

LEPC meetings are open to the public and notification of meeting dates and times is required. The LEPC now uses the county website to post notice of the committee's meetings for the year; that option was added to the Bylaws during a previous update. However, language still remained about publishing news releases. That was removed and replaced was a general statement that meeting details will be published at least 5 days before the meeting.

- i. Page 3 in the "Meetings" paragraph of the "Public Notification of LEPC Activities" section.

b. Change in collection of fees

The Bylaws allow for the LEPC to recoup costs associated with searching for and reproducing records. Due to changes in technology, per call/per minute charges are no longer incurred for faxes and phone calls. The line in the Bylaws that provided for charging-back fax or long-distance calls to the requestor was removed and the list of costs was renumbered:

- i. Appendices: page A-6 in the "Costs Involved with a Request for Information" (the removed item was formerly item #4 on that list).

4. Information Update and Reformatting

a. Sample News Release

In case the committee should ever opt to utilize a press release for meeting notification, the sample release was left in the appendices, however some changes were made. It was updated with the current EMA Director name. Additionally, the overall formatting of the template was also cleaned up to more clearly identify where and what information should be inserted.

- i. Appendices: page A-8, entire page

BUTLER COUNTY LEPC BY-LAWS

Butler County, Kansas

Local Emergency Planning Committee

BY-LAWS AND PROCEDURES

PREAMBLE

To provide an efficient means of operation, the Butler County Local Emergency Planning Committee (LEPC) has established the following set of By-Laws and Procedures by which to operate. These By-Laws and Procedures address a variety of issues and requirements including meeting formats, membership, agendas, public notification activities, receiving and responding to public comment, distribution of emergency plans, and requests for information under the Emergency Planning and Community-Right-to-Know Act of 1986.

CHANGES TO THE BY-LAWS AND PROCEDURES

The By-Laws may only be changed by a two-thirds majority vote of the LEPC membership following the review of the proposed change(s) by all the members of the LEPC. The procedures may be changed by a majority vote of the LEPC members present at a regularly scheduled meeting.

COMPOSITION OF THE COMMITTEE

The Committee shall be comprised of the following representatives:

1. Elected local and Appointed Officials; Emergency Management
2. Law Enforcement, Fire Fighting and Emergency Medical Services
3. Broadcast and Print Media
4. Owners/Operators of "Covered" Facilities*
5. Environmental and Health Organizations
6. Interested Community Groups
7. Other interested public as deemed appropriate by the LEPC

All members shall be appointed by the Butler County Board of Commissioners. The appointees will then be approved by the State of Kansas Commission on Emergency Planning and Response (CEPR).

(A Covered Facility is a facility that is required under SARA Title III to submit Tier II Reports for emergency planning.)*

OFFICERS

A quorum of the LEPC shall annually elect a Chairperson and Vice-Chairperson at a publicly announced meeting for a term not to exceed one (1) year. Nothing in these By-Laws shall preclude one person for holding more than one office except the Chairperson and Vice-Chairperson position, who by the nature of the positions must be two separate individuals. There are no limits imposed on the number of terms for each office; however, the committee shall encourage participation of as many members as possible to fulfill the functions of the officers.

Chairperson

The Chairperson shall be elected by a majority vote of the LEPC at a monthly meeting or thirty days prior to the expiration of a one (1) year term of office. The role of the Chairperson is to be the leader of the committee and ensure that all LEPC projects, tasks and associated paperwork requirements for the functioning of this committee are carried out. These duties include setting meeting times, preparation of agendas, appointing standing or ad hoc committees, chairing meetings, reporting to the Board of County Commissioners concerning committee project status, and other duties associated with being a chairperson for any type of committee.

Vice-Chairperson

The Vice-Chairperson shall be elected by a majority vote of the LEPC at a monthly meeting or thirty days prior of the expiration of a one (1) year term of office. The role of the Vice-Chairperson is to assist the chairperson and assume his/her responsibilities during the chairperson's absence. In the event the chairperson is unable to fulfill his/her term, the Vice-Chairperson will assume full responsibility of the chairperson until such time as a new Chairperson is elected.

Recorder/Secretary

A Recorder/Secretary shall be appointed by the Chairperson to serve a term of one (1) year. The responsibilities shall include recording of the minutes of LEPC meetings, sending out meeting notifications or making personal telephone calls, preparing meeting agendas and public notification of meetings, and any other duties assigned by the Chairperson.

Information Coordinator

An Information Coordinator shall be appointed by the Chairperson to serve a term of one (1) year. It is the duty of the Information Coordinator to process public information requests in a timely manner and maintain the annual Tier II Reports as required. The Coordinator shall maintain a record of all requests and have access to those records during normal working hours to fulfill these responsibilities, will use the procedures and guidelines contained in Attachment A, "Procedures and Guidelines for Receiving and Processing Information Requests under SARA Title III".

Tier II Reports

The Director, Emergency Management, shall maintain and record all annual Tier II Reports as required by SARA Title III, which are due on the 1st day of March of each year.

PUBLIC NOTIFICATION OF LEPC ACTIVITIES

The following requirements are set forth for conducting public meetings of the LEPC:

Meetings

Meetings will be held quarterly at a minimum or may be held more often as necessary. The date, time and location of the regular LEPC meetings shall be published by the Recorder/Secretary at least 5 days prior to the meeting date. Attachment B contains a sample of a suggested news release, if that method is used. Such meetings shall be posted on the Butler County Emergency Management website. Posting of the meetings on the Emergency Management website will meet the requirement for public notice.

Public Hearing

In the event of a Public Hearing, notification shall be the same as for meeting notification, but shall also include a legal advertisement placed in the local newspapers at least five (5) business days before the Public Hearing. Such hearings shall be posted on the Butler County Emergency Management website which will meet the public notice requirement.

Reports and Plans

Public notification concerning the issuing of major reports and plans shall be the same as for Public Hearings. Such reports and plans shall be posted on the Emergency Management website:

Minutes of Meetings and Hearings

Official minutes of all LEPC meetings and hearings shall be documented and made available to the public upon request. Requests for minutes shall be made using the request for information procedures in Attachment A. Minutes shall be posted on the Butler County Emergency Management website after approval of the minutes by the committee.

IDENTIFICATION AND EDUCATION OF COVERED FACILITIES

Many of the facilities that are required to submit Tier II reports under SARA Title III, especially smaller facilities, may not know that they are also required to report to the LEPC. The LEPC will assist in the identification and education of covered facilities through public information campaigns. This may include involvement with or providing information to:

1. Local Chambers of Commerce
2. Planning Commissions
3. The County Appraiser's Office
4. The Community Development Office
5. The county website
6. Local media partners

In addition to general education efforts, the LEPC shall also be available to meet with and provide additional information on Title III reporting requirements to any potentially covered facility.

APPENDICES

- Attachment A
- Attachment B

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ATTACHMENT A

Procedures and Guidelines for Receiving and Processing Information Requests under SARA Title III

Butler County Local Emergency Planning Committee
Butler County, Kansas

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INTRODUCTION

On October 17, 1986, "The Emergency Planning and Community Right-to-Know Act of 1986" was enacted into law. This Act is part of the "Superfund Amendments and Reauthorization Act of 1986 (SARA) but is a separate, freestanding statute, sometimes known as "Title III". Title III establishes requirements for Federal, State and local governments and industry regarding emergency planning and "Community Right-to-Know" reporting on hazardous and toxic chemicals. This legislation builds upon EPA's Chemical Emergency Preparedness Program (CEPP), the Community Awareness and Emergency Response (CAER) program of the Chemical Manufacturers Association and many State and local programs aimed at helping communities to meet their responsibilities regarding potential chemical emergencies.

The Community Right-to-Know provisions of Title III will help to increase the public's knowledge and access to information on the presence of hazardous chemicals in their communities and releases of these chemicals into the environment. These procedures describe the basic types of information available and outline the process for public distribution of this information.

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INFORMATION THAT IS AVAILABLE

Under Title III, certain covered facilities are required to file information with the State Commission on Emergency Planning and Response (CEPR) and the Local Emergency Planning Committee (LEPC). The information that must be filed includes:

1. Safety Data Sheets (SDS) or List of SDS Chemicals (Section 311)
2. Emergency and Hazardous Chemical Inventory Forms (Section 312)
3. Follow up Emergency Notices (Section 304)

Title III allows members of the public to have access to information filed with the CEPR and the LEPC by making an appropriate request.

SDS or LIST OF CHEMICALS

Section 311 of Title III requires an owner or operator of a covered facility to submit specific information for each hazardous chemical that is stored at the facility. The information needed is in the Materials Safety Data Sheet (SDS) which contains information regarding the hazards associated with the use of or exposure to hazardous chemicals. Section 311 also gives the owner or operator the option of filing a list of the chemical for which they must have an SDS, instead of filing the SDS itself. Where an owner or operator files the "list" and a member of the public requests from the LEPC a copy of the SDS for any chemical on the list, the LEPC shall request the sheet from the facility owner or operator and then make the sheet available to the requestor according to Title III requirements.

EMERGENCY AND HAZARDOUS CHEMICALS INVENTORY FORM

Section 312 of Title III requires an owner or operator of a covered facility to prepare and submit an Emergency and Hazardous Chemical Inventory Form (also known as a Tier II Report).

The inventory form is to be submitted to the LEPC, CEPR and the local fire department(s) by March 1st of each year. Section 312 specifically delineates the kinds of information required on the inventory form and sets out those special circumstances under which highly specific information is to be submitted.

The inventory form must provide specific information regarding the amounts and locations within the facility of categories of hazardous materials. Such general information, known as "Tier II Information" must be provided for each chemical, in aggregate terms for those categories of hazardous chemicals set forth under the Occupational Safety and Health Act and the regulations issued under this Act.

Specific Tier II information required in the inventory form includes:

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1. The chemical name or the common name of the chemical as provided on the materials safety data sheet.
2. Any estimate (in ranges) of the maximum amount of the hazardous chemical present at the facility at any time during the previous calendar year.
3. An estimate (in ranges) of the average daily amount of hazardous chemicals present at the facility during the previous year.
4. A brief description of the manner of storage of the hazardous chemical.
5. An indication of whether the owner elects to withhold location information of a specific hazardous chemical from the disclosure to the public under Section 324.

Any person may request the CEPR or the LEPC for Tier II information relating to the previous calendar year with respect to a facility. Any such request shall be in writing and shall be with respect to a specific facility. Upon receipt of a request, the CEPR or the LEPC shall notify the owner or operator of the specific facility of the request.

Any Tier II information that the CEPR or the LEPC has in its possession shall be made available to a person making a request under CEPR procedures. If the CEPR or the LEPC does not have the Tier II information in its possession and received a request for that information, the CEPR or the LEPC shall request the facility owner or operator for the Tier II information with respect to a hazardous chemical that a facility has stored in an amount over 10,000 pounds present at the facility any time during the previous calendar year. Such information shall then be made available to the person making the request.

When Tier II information that is not with the CEPR or the LEPC and which relates to a hazardous chemical that a facility has stored in an amount less than 10,000 pounds present at the facility any time during the previous calendar year, a request from a person MUST include the general need for the information. The CEPR or the LEPC has the discretion to grant or deny such request.

FOLLOW UP EMERGENCY NOTICE OF RELEASE

Section 304 of Title III requires covered facilities to submit emergency notification of releases of specific extremely hazardous substances. Such notifications are to be made to the Butler County Department of Emergency Management, the LEPC, and to the CEPR of the State of Kansas. Additionally, Section 304 requires that an owner or operator of a covered facility provide written follow up notices when practical after the release. Such follow up notices are to include:

1. An update of the information included in the initial release notification;
2. Information on actions taken to respond to and contain the release;
3. Any known or expected acute or chronic health risks associated with the release and;

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4. Where appropriate, advice regarding medical attention necessary for exposed individuals.

GENERAL POLICY

The CEPR and the LEPC will make the fullest possible disclosure of records to the public consistent with the provisions of Title III. All CEPR and LEPC records shall be available to the public unless they are exempt from disclosure requirements.

FILING A REQUEST FOR INFORMATION

A request for records may be filed with the CEPR or the LEPC if the request relates to a facility found in the Butler County LEPC's Emergency Planning District. The addresses of the CEPR and the LEPC are:

State of Kansas Commission on Emergency Planning & Response
c/o Adjutant General
Kansas Division of Emergency Management
2800 S.W. Topeka Blvd.
Topeka, KS 66611-1287

Butler County Local Emergency Planning Committee
c/o Butler County Emergency Management
2100 N. Ohio, Suite B
Augusta, KS 67010
Telephone: 316-733-9796
Fax: 316-733-0119

Records which may be requested from the LEPC are the local emergency response plans, SDS or list of hazardous chemicals, the hazardous chemical inventory forms, and follow up notices of releases. Records which may be requested from the CEPR are the hazardous chemical inventory form and emergency follow up notices of releases.

A request must be made in writing, must describe the records sought in a way that will allow their identification and location, but otherwise need not be in any particular form. If the description of the records sought in the request is not sufficient to allow the CEPR or the LEPC to identify and find the requested records, the CEPR or the LEPC will notify the requestor (by telephone when practical) that the request cannot be processed until more information is given.

Every reasonable effort will be made to help in the identification of records sought and to help the requestor in formulating their request. If a request is described in general terms (e.g. all records concerning a certain facility), then the CEPR or the LEPC may talk with the requestor (by telephone when practical) with a view towards reducing the administrative burden of processing broad requests and minimizing the fees payable by

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the requestor. Such attempts will not be used as a means of discouragement, but as a means to help identify the specific records sought.

Requests received at offices other than those described above may not be answered in a timely manner. Oral or phone requests for records will NOT be honored, only by written request. Written requests may be hand delivered. Fees are payable upon receipt of requested information.

RESPONDING TO A REQUEST FOR INFORMATION

The CEPR or the LEPC, upon receipt of a written request, will mark the request with the date of receipt and begin to identify the requested information or ask for more information concerning the request. Such responses must either;

1. Furnish copies of the requested information;
2. Advise the requestor of the time and place at which they may inspect and copy the information; or
3. Deny the request stating in writing the reason for such denial.

Denials of requests may be made only in the following circumstances:

1. The requested record is not known to exist;
2. The record is not in the CEPR or the LEPC possession and the CEPR or the LEPC is not required under Title III to obtain this record from the owner or operator of a covered facility; or
3. The record is exempt from disclosure under Title III.

A letter informing the requestor of the denial must be sent within 45 days. The letter shall clearly state the basis for denial.

INFORMATION THAT MAY BE WITHHELD

The following information may be withheld from the public under Title III:

1. **Trade Secrets:** The specific chemical identity, (including the chemical name and other specific identification) may be withheld by the owner or operator of a covered facility from information submitted to the CEPR and/or the LEPC if such information is determined by the U.S. Environmental Protection Agency to be a trade secret as defined in Title III.
2. **Location of the Specific Chemical:** Upon request an owner or operator of a facility subject to Title III, the CEPR and the LEPC must withhold from disclosure the location of any specific chemical required by Title III to be contained in an inventory form as Tier II information.

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COSTS INVOLVED WITH A REQUEST FOR INFORMATION

Fees will be charged for searching for and reproducing requested records. Fees charged by the Butler County LEPC shall be sufficient to defray the cost as associated with finding and reproducing the requested information. Accordingly, the fees to be charged by the LEPC are as follows:

1. Copying cost shall be twenty-five cents (\$.25) per page.
2. The charge for copying materials that must be reproduced by outside facilities shall be the actual cost of copying.
3. A search fee of twenty dollars (\$20.00) per hour or fraction of an hour and shall be charged for the time spent in trying to find requested records beyond the initial half hour used to find such records.
4. Information copied to a computer disk (CD) will be at the rate of twenty-five dollars (\$25) per CD.
5. An invoice for the total amount of fees will be given to the Requestor when the materials are picked up. Payments shall be made by money order, cash or cashier's check payable to the "Butler County LEPC".

GLOSSARY OF TERMS

Chemical Releases – Releases of toxic chemicals that must be reported annually in a "Toxic Chemical Release Reporting Form" to the U.S. Environmental Protection Agency and a State official to be designated by the Governor according to Section 313 of Title III. The report is due July 1st of each year.

Emergency Notification of Emergency Release Notification – The notification required by Section 304 of Title III that must be given immediately upon a release of a listed hazardous substance that exceeds the reportable quantity for that substance. This notification must be given to the CEPR and the LEPC.

Emergency Response Plan – The plan developed and maintained by each LEPC dealing with the response to, training for and mitigation of hazardous materials within each LEPC planning district.

Inventory Form – The Emergency and Hazardous Chemical Inventory form that must be submitted by covered facilities to the LEPC, the CEPR and the local fire departments. The inventory form is sometimes referred to as the Tier II.

List of SDS Chemicals – A list of chemicals submitted to the LEPC, the CEPR, and the local fire departments instead of the requirement to submit copies of the Safety Data Sheet (SDS).

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LEPC or Local Emergency Planning Committee – The committee is responsible for receiving hazardous chemical information from covered facilities and making this information available to the public. The LEPC is also responsible for overseeing the development and implementation of the Emergency Plans under its cognizance.

SDS or Safety Data Sheet – A form used by chemical manufacturers and required by the Federal Occupational Safety and Health Administration's Hazard Communications Standard (29 CFR 1910.1200) for reporting health and safety information on hazardous chemicals.

Commission on Emergency Planning & Response – The State agency responsible for implementation of Title III with the State. The CEPR oversees operation of LEPCs as well as coordinating emergency response activities.

Tier II Information- Information that must be provided in the inventory form only upon request of the CEPR or the LEPC. This information is due March 1st of each year.

Pamela R Dunham
LEPC Chairperson (printed name)

Pamela R Dunham
LEPC Chairperson (signature)

12/24/19
Date

Marc Murphy
Chair of the BOCC (printed name)

Marc Murphy
Chair of the BOCC (signature)

12/24/19
Date

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SAMPLE NEWS RELEASE

For Immediate Release: [Insert Date]
Contact: Keri Korthals, EMA Director
Telephone: 316-733-9796

The Butler County Local Emergency Planning Committee (LEPC) will meet at [insert time, date and location].

The meeting is open to the public.

For further details contact [insert LEPC Chairperson name, phone number].