

McKINLEY COUNTY  
LOCAL EMERGENCY PLANNING COMMITTEE  
BYLAWS

**ARTICLE I  
GENERAL INFORMATION**

Section I. Name

The name of this organization shall be the "McKINLEY COUNTY LOCAL EMERGENCY PLANNING COMMITTEE", hereinafter referred to as the "LEPC".

Section II. Purpose

The Purpose of the LEPC shall be:

- A. To participate in carrying out for McKINLEY COUNTY, those responsibilities required by the LEPC pursuant to Public Law 99-499, Superfund Amendment and Reauthorization Act (SARA) of 1986, SARA Title 111, and related regulations. Those responsibilities include but are not limited to:
- i. Assistance to the McKinley County Office of Emergency Management in the development, implementation, evaluation, and updating of the McKinley County All Hazards Emergency Operations Plan (hereinafter referred to as the EOP).
  - ii. To promote planning, training, education, and professional development of its members in order to enhance programs which encourage the safety and health of the residents of McKinley County to include conducting educational programs to help the public understand safety risks and community rights.
  - iii. Development of procedures for regulated facilities to provide notification to LEPC in accordance with SARA Title III.
  - iv. Development of procedures for receiving and processing requests from the public *under* the community right-to-know provisions of SARA Title 111.
  - v. Provision for public notification of Committee activities.
  - vi. For the purposes of plan modification and revision, acting as an evaluation committee after incidents and exercises.

- 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 McKinley County.

### Section III. Authorization

The SARA of 1986 was enacted by Congress into law on October 17, 1986, and contains SARA Title 111: The Emergency Planning and Community Right-to-know Act of 1986.

Pursuant to SARA Title III, the New Mexico State Emergency Response Commission (SERC) designated McKinley County a local emergency planning district and has appointed a Local Emergency planning Committee for McKinley County composed of elected officials, emergency management, fire, paramedics, law enforcement, communications, public health professionals, environmental, hospital and transportation officials, representatives of facilities subject to the emergency planning requirement, community groups, school districts, and the media.

The task of the LEPC is to establish rules, notify the public its activities, establish procedures for handling public request for information, and assist in the development and subsequent maintenance of the McKinley County MI-Hazards Emergency Operations Plan.

Pursuant to SARA Title III, the LEPC has adopted the bylaws contained herein.

## **ARTICLE II MEMBERSHIP INFORMATION**

### Section I — Qualifications

Those persons seeking membership shall represent the various professional and community groups as designed by SARA Title III. Prospective members shall be residents of or conduct business in McKinley County. Prospective members shall be of good moral character and in good standing with all of the municipalities within McKinley County.

### Section II — Vacancies

Any vacancy occurring within the Executive Committee by reasons of resignation, death, or disqualification of a member shall be filled by election. The LEPC Secretary/Treasurer shall submit the newly elected person's name, with the recommendation that he/she serve the term balance, to the Executive Committee requesting that they nominate this person to the SERC.

### Section III — Disqualification

Any member who is unable to attend or send a qualified representative to a regular meeting of the LEPC shall notify the Secretary/Treasurer or the Chairperson. Any member who does not attend or send a qualified representative to three (3) consecutive meetings or a total of four (4) meetings within a year is subject to being disqualified at the request of the LEPC and SERC.

### Section IV — Term

With the exception of the Emergency Manager, which is a permanent position, the term for Executive Committee members shall be two (2) years. (See also Article IV, Section II) Should an election be held to fill a vacated position, the term shall be the remainder of the original term.

### Section V – Member Alternates

Any non-Executive Committee member may send a qualified representative to stand for them during the course of a scheduled meeting. The alternate must be identified by the Chairman as such prior to a scheduled meeting and must represent the same discipline as the active member. In addition the alternate may not represent more than one member during the course of the meeting.

## **ARTICLE III ORGANIZATIONAL INFORMATION**

### Section I — Classes of Membership:

The membership of the LEPC shall encompass, to every extent possible, all of the jurisdictions and disciplines as outlined in Article I, Section 3, and paragraph 2 of this document. The membership shall be designated as either:

- A. Active Membership — Those members, organizations or their designees who, by their registration status, agree to participate in no less that: 75% of all meetings and shall have voting privileges.
- B. Associate Membership — Those members, organizations or their designees who, by their registration status, choose to participate in all meetings on an at-will basis and hold no voting privileges.

Section II — Executive Committee:

The Executive Committee shall be responsible for coordinating activities with all Standing and Ad Hoc Subcommittees in addition to the other duties deemed necessary by the active members of the LEPC. The Executive Committee shall consist of the following officers:

- A. 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 Committees as necessary to accomplish the goals of the LEPC.
- B. Vice-Chairperson - Upon resignation, 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. The Vice-Chairperson shall succeed the Chairperson.
- C. Emergency Manager - The Emergency Manager has the authority and responsibility for the implementation of the McKinley County All-Hazards Operations Plan, The Incident Command System (ICS) shall be used at all emergencies to establish command of the incident. This is a non-elected Executive Committee position.
- D. Secretary/Treasurer - The Secretary/Treasurer shall be the custodian of all the books, papers, documents, and other property of the LEPC. The Secretary/Treasurer shall keep a true record of all the proceedings of all the meeting of the LEPC. The Secretary/Treasurer shall be responsible for public notice of meetings as required in Article IV, Section III and Article VIII, Section III. Additionally, the Secretary/Treasurer shall attend to the business needs of the LEPC and shall maintain an accurate record of all monies received and expended for the use of the LEPC. This position is appointed by the Emergency Manager and shall be an employee of McKinley County.
- E. Election The Executive Board will serve for a period of two (2)\_years-with election being held in January of each even numbered years for the position of Vice-Chairperson and every odd numbered year for the position of Chairperson.
- F. Legal - For the purposes of LEPC, the McKinley County Attorney will act as legal representative. This person will be a non-voting member of the Executive Committee.

### Section III — Standing Subcommittees:

The Standing Subcommittees shall include the following:

- A. All-Hazards Emergency Operations Plan (EOP) Review Committee- Responsible for the maintenance and evaluation of the EOP as required by law. This subcommittee shall review all existing Federal, State, and local plans for the purpose of coordination with the LEPC planning process.
- B. Hazard Analysis - Responsible for the identification of potential hazard sites that, if compromised, may endanger the public health, safety or general welfare.
- C. Right-To-Know Committee - Responsible for the interpretation, formulation and implementation of the LEPC Right-To-Know program. This Committee shall act as an information collection agent for all Tier H and MSDS reports as required by law, and the dissemination of this information as requested by the public.
- D. Incident Debriefing -- Responsible for the evaluation of the overall response to large scale emergency incidents and any recommendations for change arising from these Incidents in order to better improve overall response.
- E. Volunteer Organizations -- Responsible for compiling a list of volunteers or volunteer organizations in order to create an organizational structure outlining the responsibilities of these individuals or agencies during a disaster.
- F. Community Relations/Public Information - Responsible for reviewing and, if necessary, the development and implementation of the public alert and notification program, public relations, all publicity with respect to the LEPC, and development of a public education and information program.

The Chairperson of the Standing Subcommittees shall be nominated and elected by their respective subcommittees. All LEPC members must volunteer to serve on at least one subcommittee. The LEPC Chairman after consultation with the Executive Committee may choose to combine certain subcommittees in order to achieve maximum efficiency. Final membership within subcommittees shall be determined by the Chairman to ensure that there is sufficient manpower to carry out the assigned tasks.

### Section IV - AD HOC Committees

In Addition to the Standing Subcommittees, Ad Hoc Committees shall be appointed as necessary to address special needs of the LEPC not addressed by other Standing Subcommittees. Ad Hoc Committee Chairpersons 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 this article.  
Requirements all meetings are as follows:

- A. Frequency - The LEPC shall conduct one regular meeting not less than once per quarter.
- B. Special meetings may be called as deemed necessary by the Chairperson or the Emergency Manager in order to carry out the duties of the LEPC.
- C. Public notice of all regular meetings must be posted in accordance with NMSA, 1978, Section 10-15-1 through 10-15-4 of the New Mexico Open Meeting Act.
  - i. Notice of time, date, place of meeting, and agenda items to be considered at each meeting shall be given in writing (either by mail, fax, or electronic means) to all members at least two weeks prior to each meeting by the staff of the McKinley County Office of Emergency Management, Chairperson, or Secretary/Treasurer.
  - ii. Notice will also be given to the Clerk and Board of Commissioners of McKinley County.
  - iii. Notice of the regularly scheduled annual LEPC meeting shall be published in a newspaper with regular circulation within McKinley County in accordance with SARA, Title Hi (EPCRA). This notice shall specify the meeting designated specifically for receipt of public comments on the EOP.
- D. A Quorum shall be defined as a majority of Committee members, excluding those members deemed to be inactive. A quorum shall be required to transact business.
- E. The rules contained in **Robert's Rules of Order, Newly Revised**, shall govern the committee in all cases to which they are applicable and in which they are not inconsistent with these bylaws.
- F. Agenda - Any member may request that the Chairperson place an item on the meeting agenda before the agenda is officially approved by the Executive Committee.

## Section II - Standing Committee

The Standing Subcommittee Chairpersons will determine the number of meetings to be held as deemed necessary to achieve the goals of the standing subcommittee. Agendas and minutes to the previous meeting will be mailed in advance to all members of all the Standing Subcommittee and LEPC Secretary/Treasurer.

## Section III - Public Hearings & Annual Meeting

Public Hearings - The LEPC shall hold such public hearings as deemed necessary and desirable at such time and place as may be determined by a majority vote of the Committee. At least one such public hearing, or forum, shall be held each year for the purpose of discussing the McKinley County All-Hazards Emergency Operations Plan with the public, and receive and respond to public comments of the presented plan. In addition, one mandatory public meeting will be held in January of each year for the purposes of election to the Executive Committee and appointment to Standing and Ad Hoc Subcommittees.

## Section IV - Voting

- A. Each committee member or designated representative, including the Chairperson, shall be entitled to one vote. No member shall vote by proxy.
- B. Members may register their abstention on any vote. The abstention shall be reflected in the minutes. Members are required to abstain on matter that pose a conflict of interest.
- C. All final actions, committee positions, or policy recommendations shall require the favorable vote of a majority of those committee members or designated representatives at a duly called meeting.

## ARTICLE V FISCAL INFORMATION

### Section 1 - Information

The LEPC may receive and disburse public and private funds for the purpose of implementing the Emergency Planning and Community Right-to-know Act of 1986 and providing for training and implementation of the All Hazards Emergency Operations Plan in McKinley County, New Mexico. Such monies shall be deposited with the McKinley County Treasurer and credited to a "separate account" within the McKinley County Office of Emergency Management Budget.

### Section 2 - Funds

Disbursements of all funds will require prior authorization by the Chairperson and Emergency Manager by budget category or specific item. Periodic financial reports will be made as required by law or as requested by the LEPC.

### Section III - Fiscal Year;

he fiscal year shall begin on July 1

#### through June 30. Section IV - Fees

Reasonable fees may be collected for information provided or services rendered by the LEPC. The fees collected shall be as established or recommended by local, state, or federal law, regulation, guideline or ordinance. In the absence of recommended or required fee, the fee shall be determined by the Executive Committee based on the cost of providing the information or

### ARTICLE VI

#### ORGANIZATIONAL RULES AND INFORMATION

SARA Title III requires that the LEPC "shall establish rule by which the committee shall function. Such rules shall include provisions for public notification of committee activities, public meetings to discuss the emergency plan public comments, response to such comments by the committee, and distribution of the emergency plan...

#### Section I – Adoption of Rule; 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 be published in proposed form not less than ten (10) days prior to final adoption by the LEPC. Such notice of



proposed rule shall invite written public comment on any aspect of the proposed rule during the ten (10) day period.

#### **Section II - Method of initiating Proposed Rule Making**

Any member of the LEPC may recommend the initiation of proposed rule-making. Any proposed rules shall be initially reviewed and considered by the Executive Committee, unless otherwise decided by the LEPC. If the Executive Committee, by majority vote, approves a proposed rule, the rule shall proceed to publication as outlined in the preceding section,

#### **Section III - Method of Adopting Final Rules**

Following the expiration of the ten 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 change to the proposal. The Executive Committee shall present this statement to the LEPC. The LEPC shall then vote on the adoption of the proposal rule. If the LEPC acts favorably, the rule shall take effects immediately upon the time and date the notice of adoption is first published.

#### **Section IV - Notice of Adoption**

Upon adoption of any rule by the LEPC, the Secretary/Treasurer, 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 the same as that for proposed rules.

#### **Section V ° Emergency Rules**

In an emergency circumstance, 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.

#### **ARTICLE VII AMENDMENTS**

These bylaws may be amended by a two-thirds vote of members present and voting at any meeting of the LEPC provided that any proposed amendment to these bylaws be submitted to the members in writing at least 30 days in advance of the meeting. Any member of the LEPC shall have the right to comment on or suggest revisions to the bylaws.

#### **ARTICLE VIII**

#### **REGULATORY RULES INFORMATION**

#### **Section I -General Rules Information**

Unless otherwise stated, all terms herein shall be defined in accordance with the definition provided in SARA Title III P.L. 99-499. And regulations adopted in accordance therewith.

Section II - General  
Participation

The McKINLEY COUNTY LEPC does not discriminate against any individual on the basis of race, color, national origin, sex, religion, age or disability. All meetings of the LEPC or any subcommittees thereof shall be open to the public, except under circumstances where the New Mexico Open Meeting Acts permits otherwise. The Chairperson shall afford a reasonable period of time during each regular meeting to accept public comments on any aspect of the LEPC'S missions or functions.

Section HI - Public Participation **Planning Process**

Following the completion of the McKinley County All Hazards Emergency Operations Plan the LEPC shall:

- A. Publish, in at least one newspaper of general circulation in McKinley County, notice of the availability of the plan for public inspection and review. Such notice shall appear on at least two occasions no closer than three calendar days apart.
- B. Publish notice, in the manner described in the preceding subsection, of no fewer than two public meetings to accept oral comments on the draft plan and hold such meetings.  
Publish notice, in the manner described in the preceding subsection, of no fewer than two public meetings to accept (oral or written) comments on the **draft plan** for **no less** than 30 days following the last scheduled public meeting. Such notice shall designate a person designated by the Chairperson to receive comments.
- D. Review oral and written comments received and publish its responses to major issues raised in such comments in the manner described in Paragraph 2 of the article. Nothing herein shall require responding to each and every comment received.

Section IV - **Public Access** to Information

- A. In accordance with Section 324 of SARA information 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 committees, shall be made available to the person submitting the request under this section.
- B. 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, and mail or delivery charges. Rates shall be set from time to time by the Secretary/Treasurer, with the approval of the Executive

Committee\_ There rates shall be set at a level which will enable the LEPC to recover all reasonable expenses associated with processing the request.

C. Routine Requests for MSDS, Tier II and other Non Confidential Information.

Any person may obtain MSDS, Tier II or any other non-confidential formation in the possession of the LEPC with respect to a certain facility by submitting a written request to the LEPC Secretary/ Treasurer.

2. If the LEPC does not have in its possession the MSDS or Tier II forms requested, it shall request a submission of the MSDS or Tier II form from the appropriate owner or operator.

The LEPC will only make requests to specific facilities

- 4 Should the LEPC receive a request for information not addressed in the section, the Secretary/Treasurer shall refer the requestor to the appropriate owner operator.

#### Section V - 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 the section, the LEPC will not honor any business confidentiality or trade secret claims. 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 same. Such information shall be exempt from disclosure by the LEPC permanently or until such time as:

- (1) An authorized government 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 a written notice of such

determination. Section VI - Distribution of the All-

#### **Hazards Emergency Operations Plan**

- A. One copy of the plan, less any confidential planning, staging, and any other information deemed privileged, shall be distributed to the following persons or entities as per the categories stated:

Mandatory Distribution: (no charge to recipients)

1. State Emergency Response Commission
2. State of New Mexico, Office of Emergency Management
3. Local Government entities located within McKinley County
4. McKinley County LEPC Executive Committee, Standing Committee, and active members
5. Public libraries
6. Organizations contributing sections for the plan
7. Adjacent county LEPC'S

Upon Request and Charges Paid in Advance by Recipients:

8. Other distribution of the plan as copies are available from the Secretary/Treasurer at the sole expense of such individuals or organizations as outlines in Article VIII, Section 4, paragraph B of these rules.
9. Requests for copies of the plan from the general shall be provided at the sole expense of such persons *as* outlined in Article VIII, Section 4, paragraph B of these rules.
  - A. The general public has access to the plan through the Secretary/Treasurer of the McKinley County LEPC and through the McKinley County Office of Emergency Management,
  - B. The plan will be reviewed annually by the McKinley 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/Treasurer. As the plan is revised, updates to the plan

will be distributed at no cost to members of the LEPC and those plans as listed in :terns above will be provided upon written request and at the sole expense of such requestor as outlined in Article VIII, Section 4, paragraph B of these rules.

## ARTICLE IX