

La Crosse County Local Emergency Planning Committee By-laws

(Effective as of May 17, 2023)

Introduction and History

Federal legislation enacted the Superfund Amendments and Reauthorization Act, Title III (SARA Title III), which is also known as the "Emergency Planning and Community Right-To-Know Act". SARA Title III required states to adopt Local Emergency Planning Districts and create a State Emergency Response Commission. Wisconsin legislation created the Wisconsin State Emergency Response Board (SERB). The SERB established local emergency planning districts that coincide with county jurisdictional boundaries on July 17, 1987. The SERB confirmed the LEPC on August 13, 1987. Counties were required to create a Local Emergency Planning Committee (LEPC) in accordance with SARA Title III to oversee the Hazardous Materials Planning and Community Right-To-Know functions. These rules of operation are promulgated under the directive of SARA Title III Section 301(c). SERB was changed to the State Emergency Response Commission (SERC) in July of 1998 and the Wisconsin Division of Emergency Management serves as the SERC, with the chairperson as the Administrator.

Wisconsin Emergency Management is responsible for implementing EPCRA at the state and local levels. Each of the 72 counties in Wisconsin have Local Emergency Planning Committees (LEPCs) that are set up in accordance with the federal legislation and who are responsible for implementation of EPCRA at the county level. The county emergency management director is a member of the LEPC to ensure continuity and coordination of emergency response planning.

Authority

LEPC authority derives from the federal SARA Title III Legislation and Wisconsin Statutes treat any Local Emergency Planning Committee appointed by a County Board as a department of state government and any member of such a committee as a department of state employee.

Summary of Requirements for EPCRA and s. 323.60, Wis. Stats.

Emergency Planning Notification - SARA TITLE III SECTION 302 and s. 323.60, Wis. Stats., requires the owner or operator of a facility that has present any extremely hazardous substances (EHS), in amounts that equal or exceed the chemical-specific threshold planning quantity (TPQ), to notify WEM and the LEPC that the facility is subject to the planning provisions of the Act. This requirement must be done within 60 days of the EHS being present at the facility at or above the TPQ. In Wisconsin the facility would report using Form DMA 1003, Emergency Planning Notification Fee Statement.

There is a one-time \$1,080 planning fee also due within 60 days of the EHS being present at or above the TPQ. A 20% late payment surcharge is due if the fee is paid after 60 days.

A facility is exempt from fee payment if the operator has less than 10 full time equivalent (FTE) employees (less than 20,000 paid hours annually) in the state.

Providing Emergency Planning Information – SARA TITLE III SECTION 303 and s. 323.60, Wis. Stats., requires an owner/operator subject to Section 302 to provide the LEPC with the name, address, and telephone number of a facility representative "who will participate in the emergency planning process as the facility emergency coordinator." Correspondence on business letterhead outlining responsibilities is acceptable. The county LEPC will then develop the off-site plan in cooperation with the facility. The facility must provide the LEPC with any information that is requested and necessary to develop the plan.

Emergency Release Notification – SARA TITLE III SECTION 304 and s. 323.60, Wis. Stats., requires the owner or operator of a facility to immediately provide verbal notification to the appropriate governmental entities (National Response Center at 800-424-8802, WEM at 800-943-0003, and appropriate LEPCs), that a release of a Comprehensive

environmental Response Compensation and Liability Act (CERCLA) hazardous substance or EPCRA extremely hazardous substance (EHS) has occurred which meets or exceeds the listed reportable quantity (RQ), when the release goes off-site. This is commonly referred to as the federal substance release reporting law.

Wisconsin also has its own release reporting law under s. 144.76, Wis. Stats.

The Wisconsin Department of Natural Resources (DNR) has authority over the law and it is commonly referred to as the DNR spill law. The law requires that the release of any hazardous substance, be promptly reported to the DNR. A hazardous substance is one that may cause harm to human health and safety or the environment. To provide notification, call the state hotline at 1-800-943-0003, use menu option #1 for substance release reporting.

Safety Data Sheet (SDS) or SDS Chemical List Submission – SARA TITLE III SECTION 311 and s. 323.60, Wis. Stats., states that the owner or operator of a facility, required under the Occupational Safety and Health Act (OSHA) to prepare or have available a Material

Safety Data Sheet (SDS) for a hazardous chemical, must submit to WEM, LEPC, and the local fire department, an SDS for each hazardous chemical OR an SDS Chemical List, listing hazardous chemical grouped by hazard category, for each hazardous chemical present at a facility in quantities that equals or exceeds 10,000 pounds and for EHS that are present at a facility in quantities that equal or exceed 500 pounds or the TPQ, whichever is less.

Section 311 is not an annual reporting requirement. However, revised SDSs or SDS chemical lists must be provided to WEM, LEPC, and the local fire department within three months after the discovery of significant new information concerning the hazardous chemical or when a new hazardous chemical becomes present at the facility above the established levels.

Annual Hazardous Chemical Inventory Reporting – SARA TITLE III SECTION 312 and s. 323.60, Wis. Stats., and Wisconsin Administrative Rule WEM 1, states that the owner/operator of a facility, required to prepare or have available a SDS for a hazardous chemical under OSHA, shall submit by March 1st annually to WEM, LEPC, and the local fire department with jurisdiction over the facility a completed emergency and hazardous chemical inventory form (Form DMA 1005 TIER TWO) for the facility. Any hazardous chemicals present the preceding calendar year that equaled or exceeded the 10,000-pound threshold reporting quantity and any EHS present that equaled or exceeded 500 pounds or the TPQ, whichever is less, must be reported on the Tier Two Report unless a reporting exemption applies.

The annual Inventory Fee is due on or before March 1st annually. It based on the number and quantity of chemicals that are listed on the annual Tier Two Report, unless a substance specific fee exemption applies. A 20% late payment surcharge is due if the fee is paid late. A facility is exempt from fee payment if the operator has less than 10 full time equivalent (FTE) employees (less than 20,000 paid hours annually) in the state.

# of Chemicals Fee amount (under 100,000 lbs., cumulative)		Fee amount (100,000 lbs., or more, cumulative)
1	\$205	\$245
2-10	\$405	\$485
11-100	\$610	\$730
101-200	\$745	\$890
201-300	\$880	\$1,055
301-400	\$1,015	\$1,215
401-500	\$1,150	\$1,375
500 and over	\$1,285	\$1,540

Toxic Chemical Release Reporting – SARA TITLE III SECTION 313 and s. 323.60(5)(d), Wis. Stats., and Wisconsin Administrative Rule WEM 3 requires the owner/operator of a facility with Standard Industrial Codes (SIC) 20-39, public and private agencies, or SIC codes 10-13, who have 10 or more fulltime equivalent employees at the facility, to report by July 1st annually; toxic chemicals used at the facility, equal to or in excess of 10,000 pounds for the preceding year; and listed toxic chemicals manufactured (including importing) or processed at the facility, equal to or in excess of 25,000 pounds for the preceding year. Information must be reported on Toxic Chemical Release Form “R”. For questions about Form “R”, contact the Wisconsin Department of Natural Resources at 608-266-5428.

EPCRA COMPLIANCE and ENFORCEMENT PROGRAM

The **Emergency Planning and Community Right-to-Know Act (EPCRA)** – Compliance Program offers technical assistance regarding the EPCRA requirements and compliance to affected facilities, LEPCs, County Emergency Management Directors, and other state and local agency staff. Quarterly Compliance Action Status reports are available to above mentioned group. The Compliance staff provides technical assistance to affected facilities, county LEPCs, staff at Wisconsin Emergency Management, and other state agency staff. Assistance is provided to county LEPCs for outreach programs. Also educational materials and presentations have been developed for business and industry, highlighting program requirements. Compliance staff also conduct compliance reviews utilizing other state agency databases to identify potentially noncompliant facilities and conduct investigations. A comprehensive informational handout on the requirements of federal and state EPCRA law is available for affected facilities and LEPCs.

The designation of the Compliance Inspector shall be made at the January LEPC meeting.

POSTS, POSITIONS, APPOINTMENTS AND ELECTIONS

Chairperson

Subject to the requirements of Title III, Section 301(c), the committee will elect a chairperson for a term of two years. The chairperson will preside over meetings of the LEPC and the chairperson must be a member of the LEPC. The chairperson will hold only one elected position in the LEPC.

Vice Chairperson

In order to assure that the continuity of the operation in the absence of the chairperson, the committee has established the post of vice-chairperson. In the absence of the chairperson, the vice-chairperson shall preside over meetings of the LEPC. The vice-chairperson will be elected for a term of two years and must be a member of the LEPC. The vice-chairperson will hold only one elected position in the LEPC.

Coordinator of Information

Subject to the requirements of SARA Title III, Section 301 (c), the committee designates the County Emergency Management Coordinator as the Coordinator of Information. The Coordinator of Information will undertake those duties and responsibilities as outlined under SARA Title III, Section 301 (c), and those other responsibilities and duties assigned by the LEPC. The LEPC may also designate a deputy Coordinator of Information to serve in the absence of the primary designee. The Emergency Management Coordinator shall serve as the Committee Chairman in the absence of the Chair and Vice-Chair.

Community Emergency Coordinator

Subject to the requirements of SARA Title III, Section 301 (c), the committee designates the County Emergency Management Coordinator as the Community Emergency Coordinator. The Community Coordinator will undertake those duties as assigned by the plan created under SARA Title III, Section 303 and other responsibilities and duties as assigned by the committee. The LEPC may also designate a Deputy Community Emergency Coordinator as required.

Secretary

In order to assure that the proper minutes of all meetings are kept, the chairperson or the head of any committee or subcommittee shall designate a secretary to keep minutes of the business conducted. Such minutes shall be delivered to the chairperson of the LEPC as soon as possible after a meeting and shall be kept on file in the office of the Emergency Management Coordinator. Copies of LEPC minutes shall be distributed to the County Clerk and the West Central Regional Office of the Wisconsin Division of Emergency Management.

Members

The positions that are **mandated** to participate in the local LEPC include representation from:

- Chemical Industry
- Citizens
- Elected Government Officials
- Private Business
- Transportation
- Law Enforcement
- Fire Service
- Corporations
- Environmental Organizations
- Hospitals
- Civil Defense
- Print & Broadcast Media
- Community Groups

Membership selection

The LEPC shall consist of not more than 17 persons appointed by the chair of the county board upon recommendation of the LEPC and subject to the approval of the county board for 2-year terms expiring the third Tuesday of January.

These persons may be contacted by letter from the LEPC. The list of potential nominees shall be presented to the LEPC prior to the September monthly meeting in order to allow adequate time for review and preparation of the final recommendation to the county board chair.

Vacancies shall be noticed publicly. The Emergency Management Coordinator shall submit a list of nominees to the county board chair for consideration of committee appointment. An annual report of the LEPC Membership shall be presented to the Judiciary and Law Enforcement Committee.

Membership term

Members shall serve a term of two years and may serve consecutive terms. The term shall commence on the third Tuesday of January of every odd numbered year for *GROUP 1* and commence on the third Tuesday of January of every even numbered year for *GROUP 2*.

Group 1: Elected State and local officials, Firefighting/First Aid, local environmental, transportation, and community groups.

Group 2: Law Enforcement, Health, Hospital, Broadcast and Print media, facilities subject to EPCRA and Public Safety Communications.

Mid-term vacancies may be filled by recommendation of the LEPC to the county board chair.

There shall be at least one Citizen Representative included in Group 1 and Group 2.

The election of Chair and Vice Chair shall be held at the January meeting of the LEPC.

Meeting location

Meetings of the La Crosse County LEPC shall be held in La Crosse County. Alternate locations may be chosen when deemed appropriate by the chairperson, subject to public notice of the meeting as required by law.

Meeting Times and Dates

LEPC has established a regular meeting date of the third Wednesday of every other month beginning at 9:00 A.M. Alternate dates may be chosen when deemed appropriate by the chairperson, subject to public notice of the meeting as required by law. The chairperson may call special meetings as described below for emergency situations or if written notice is received from at least two members of the LEPC requesting the special meeting and stating the items that are to be covered at the special meeting.

Emergency Meetings

During emergency conditions, when a release of a substance covered by the notification requirements of SARA Title 111, Section 304, has occurred, or is imminent, the chairperson may call an emergency meeting of the LEPC as soon as possible with the provision that all reasonable attempts have been made to notify the public of the meeting through local media. The conduct of the meeting will be limited to those items required by the emergency conditions present.

Agenda

Items to be included in the agenda will be submitted to the county coordinator at least 1½ weeks before the meetings of the LEPC unless an emergency condition is present. The agenda will be compiled and mailed to committee members, local media representatives and others who request copies at least one week before the committee meeting. Emergency agenda items may be added during the meeting at the discretion of the chairperson.

Public Opportunity

LEPC will, in every agenda, provide time to receive public comments and input, if requested. Time for public comment will be allotted on a first come, first serve basis. LEPC shall limit comments to a certain period. Public input time above 30 minutes per meeting will be provided with a majority roll call of the committee. Chairperson shall control allocation of time.

Quorum

A quorum will consist of a simple majority present at a committee meeting as approved by SERC. Each LEPC member may designate an alternate to attend a meeting in his/her absence and shall be included in the quorum and have voting rights. Members are responsible for designating the alternate and informing the LEPC. The alternate shall be designated for the term of the position.

Voting

A majority vote of members present, where a quorum exists, will be needed for passage of any motion. Members unable to attend a meeting may send the designated alternate.

Distribution of Meeting Minutes

Minutes of all meetings of the LEPC and subcommittees will be distributed to all committee members, designated alternates, and heads of government that have requested same and the Regional Office of the Wisconsin Division of Emergency Management. The La Crosse County Emergency Management Coordinator shall maintain a current mailing list and email address list of all LEPC members.

Meeting Conduct

All meetings of the La Crosse County Local Emergency Planning Committee shall be conducted according to Robert's Rules of Order.

Adoption and Amendments of the Rules of Operation

Adoption of these rules or approval of amendments to the rules can be made by reading and discussing at any regular or special meeting of the LEPC as an agenda item at the next regular or special meeting of the LEPC. Any changes to the by-laws shall require a two-thirds majority of the full LEPC membership.

<u>Public</u>	<u>Information</u>	<u>Requests</u>
Superfund Amendments and Reauthorization Act of 1986 Title III (SARA) regulations require that all requests for public		

information shall be in writing and shall be made with respect to a specific facility. Public records of the LEPC shall be maintained in the Emergency Management Office and available to the public for inspection during normal working hours.

Non-Emergency Management personnel may not remove LEPC records from the Emergency Management Office other than for purposes of photocopying or other bona fide governmental function. Photocopies of LEPC records are available at the current rates for duplication services as set forth by the County Board of Supervisors. Computer database searches and report generation services are available on a limited basis, but subject to the charges for time and materials to produce the reports. Time and materials charges will be those determined by the printing department. Charges incurred under this policy for photocopies or time and materials must be pre-paid whenever permitted under state law.