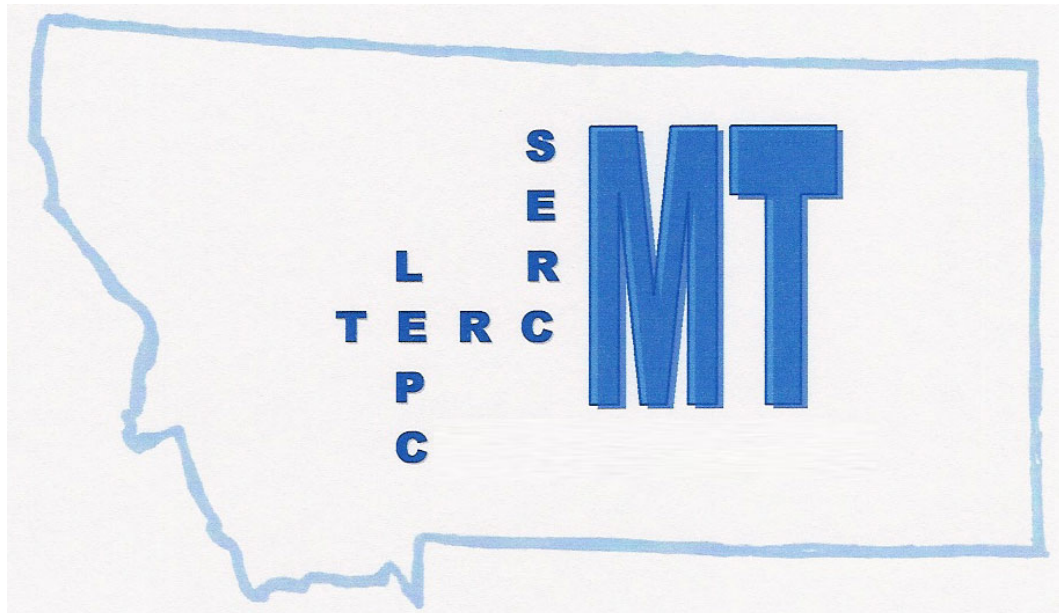


State of Montana

**Local Emergency Planning Committee  
(LEPC)**

**Tribal Emergency Response Commission  
(TERC)**

**Handbook**



Montana Disaster and Emergency Services  
1900 Williams  
PO Box 4789  
Fort Harrison, Mt 59636-4789  
(406) 841-3911 Office  
(406) 841-3965 Fax  
[sheris@mt.gov](mailto:sheris@mt.gov)

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Parts of this handbook have been extracted from the State of Texas *A Local Emergency Planning Committee (LEPC) Handbook: A Primer for Local Planning for Hazardous Materials*, developed by the State Emergency Response Commission by the Texas Department of Public Safety-Division of Emergency Management.

Additionally, this handbook has been compiled from information obtained from Handbooks of the States of Arkansas, Kansas, Nebraska, New Jersey, Ohio, Missouri, Florida, Wyoming, Maine, North Dakota, Idaho and Region 6 EPA. The Montana Disaster and Emergency Services Division is grateful for the use of this information in the development of this handbook.

## **SECTION I: INTRODUCTION**

### **A. History and Background**

This handbook is designed for Local Emergency Planning Committees (LEPC's) and Tribal Emergency Response Commissions (TERC's) in Montana. The LEPC/TERC is a product of federal legislation passed after the disaster in Bhopal, India, where thousands of people died because of an accident involving hazardous chemicals. To prevent similar accidents in our communities, in 1986, Congress passed the Emergency Planning and Community Right-to-Know Act (EPCRA), also known as SARA Title III. (See Appendix A) EPCRA establishes requirements for businesses, and for federal, state and local governments regarding emergency planning and community right to know reporting for hazardous chemicals. This helped increase awareness about the presence of chemicals in their communities and releases of these chemicals into the environment. The State of Montana has adopted the "Montana Response to Hazardous Materials Act" Title 10 MCA Part 12. (See Appendix B) As a result, states, communities and tribal nations, working with industry are better able to protect public health and the environment. Congress enacted the EPCRA regulations to benefit communities. Two main goals of this law are to:

1. Provide a basis for each community to develop and tailor a chemical emergency planning and response program to suit their needs, (in Montana LEPC's/TERC's are encouraged to perform all hazard planning), and
2. Provide the public with a right-to-know attitude to identify the hazardous materials in the community.

#### **Why this handbook?**

Federal, state and local agencies, along with industry are cooperating with local communities and tribal nations to make EPCRA and related laws effective. However, the ultimate success rests with the LEPC's/TERC's. They are the link among citizens, industry, and the government. Because LEPC's/TERC's are most familiar with the hazards in their communities, and because local citizens are the first responders for emergencies, LEPC's/TERC's are in the best position to assist local governments in developing plans to respond to emergencies in their jurisdictions. This LEPC/TERC handbook, while not a policy manual, is a guide for LEPC's/TERC's in their relationship to state and federal agencies. The complete EPCRA should be used by the LEPC/TERC when making decisions regarding hazardous materials. The Code of Federal Regulations (CFR) and any other appropriate document can be used to keep informed of any changes that may be made in the future.

## **SECTION II: LEPC's/TERC's:**

### **A. General**

The role of LEPC's/TERC's is to form a partnership with state and local government, responders, and industry as an enhancement for mitigation, preparedness, response, recovery, planning, exercising and training. Local government is responsible for planning and response within their jurisdiction. This includes ensuring the local hazard analysis adequately addresses any possible incidents that may occur in your jurisdiction; incorporating planning for hazmat incidents into the local emergency operations plan; assessing capabilities and developing response capability using local resources, mutual aid and contractors; training responders; and exercising the plan.

It is necessary to include all the players to ensure the plan is compatible. Every regulated facility is responsible for identifying a facility emergency coordinator; reporting hazmat inventories annually on a Tier II to the LEPC/TERC, local fire department, and Disaster and Emergency Services (DES); providing Material Safety Data Sheets (MSDS) or a list of hazardous chemicals; allowing local fire departments to conduct on-site inspections of hazmat facilities; and providing to the Environmental Protection Agency (EPA) and the DES Division an annual Toxic Chemical Release Inventory (TRI) of chemicals released.

LEPC's/TERC's are crucial to local planning and community right-to-know programs. The membership comes from the local area and is familiar with factors that affect public safety, the environment, and the economy of the community. This expertise is essential as the LEPC/TERC is involved in writing their local emergency operations plan.

In addition to its formal duties, the LEPC/TERC can serve as a focal point in the community for information and discussion about emergency planning, training and exercising. Citizens may expect the LEPC/TERC to answer questions about hazards, risk management actions and Homeland Security issues.

Members of the LEPC/TERC represent the various organizations, agencies, departments, facilities and other groups within their jurisdiction. Each member must realize that they represent their organization on the LEPC/TERC and that they are responsible for coordinating information and activities from the LEPC/TERC to their organization and for providing accurate feedback from their organization back to the LEPC/TERC. The LEPC/TERC has many responsibilities, mandates, and deadlines. The membership can organize to handle these various tasks by utilizing individual efforts, sub-committees, or contracted assistance.

### **B. Primary LEPC/TERC Responsibilities**

As mentioned in Section 1, the EPCRA establishes the LEPC/TERC as a forum at the local level for discussions and a focus for action in matters pertaining to hazardous materials planning. In Montana, we encourage all-hazard planning. LEPC's/TERC's

also help to provide local governments and the public with information about possible hazards in their communities or tribal nations.

The major legal LEPC/TERC responsibilities cited in EPCRA are listed below:

- ❑ Shall review local emergency management plans once a year, or more frequently as circumstances change in the community or as any facility may require.
- ❑ Shall make available each Material Safety Data Sheet (MSDS), or TIER II Report, inventory form, and follow-up emergency notice to the general public, during normal working hours at a location designated by the LEPC/TERC.
- ❑ Shall establish procedures for receiving and processing requests from the public for information including Tier II information.
- ❑ Shall receive from each subject facility the name of a facility representative who will participate in the emergency planning process as a facility emergency coordinator.
- ❑ Shall be informed by the community emergency coordinator of hazardous chemical releases reported by owners or operators of covered facilities.
- ❑ Shall be given follow-up emergency information as soon as practical after a release, which requires the owner/operator to submit a notice.
- ❑ Shall receive from the owner or operator of any facility a MSDS for each such chemical (upon request of the LEPC, TERC or fire department), or a list of such chemicals as described.
- ❑ Shall, upon request by any person, make available an MSDS to that person.
- ❑ Shall receive from the owner or operator of each facility an emergency and hazardous chemical inventory form.
- ❑ Shall respond to a request for Tier II information no later than 45 days after the date of receipt of the request.
- ❑ May commence a civil action against an owner or operator of a facility for failure to provide information, or for failure to submit Tier II information.

### **C. Additional LEPC/TERC Responsibilities**

- ❑ Shall appoint a Chairperson and have rules for:
  - Establishing authority of the LEPC/TERC
  - Immunity for LEPC/TERC members
  - Notifying DES of nominations for changes in the LEPC/TERC membership. The LEPC/TERC shall also notify DES of changes in contact information for LEPC/TERC Chairpersons.
- ❑ Shall evaluate the need for resources necessary to develop, implement, and exercise the emergency operations plan, and shall make recommendations with respect to additional resources that may be required and the means for providing such additional resources.
- ❑ Shall annually publish a notice in local newspapers that the emergency management response plan, MSDS, follow-up release notifications, and inventory forms have been submitted.

## **D. LEPC/TERC Structure**

### **1. Membership**

As prescribed under Section 301 of EPCRA, as a minimum the LEPC/TERC shall include representatives from the following organizations/agencies as applicable:

- Elected Tribal/County Officials
- Elected state or local officials
- Emergency Medical Personnel
- Fire Departments
- Health Officials
- Emergency Management
- Law Enforcement
- Community Groups
- Local Environmental Groups
- Broadcast and/or print media
- Hospital personnel
- Owners and operators of covered facilities

A single member may represent more than one of the above groups or organizations. Likewise, more than one member may represent a group. Ideally, members should be interested in emergency programs and community right-to-know activities. If you are not able to get a representative from each of these organizations, do not let that stop you from having meetings. You can provide them with a copy of the minutes, the meeting announcements and agendas, and stay in contact with them.

### **2. Appointments**

The LEPC/TERC must appoint a Chairperson and may appoint a Vice-Chairperson and other officers. A term of office should be set, but may vary in length according to the needs of each LEPC/TERC. The Chairperson can be any LEPC/TERC member. Some LEPC/TERC have chosen political/tribal leaders; others have selected chairpersons from Emergency Management, environmental groups, industry or civic organizations. Important factors to consider are the availability, management skills, commitment to the program, and respect from other LEPC/TERC members and the community (See Appendix C for a sample appointment letter).

EPCRA requires the LEPC/TERC to appoint an Information Coordinator. The Information Coordinator's job is to process requests from the Public for information under Section 324, including Tier II information under Section 312. The Information Coordinator can also assist other committee members and may have another position in the LEPC/TERC as well.

Positions not required by law, but which have proved useful are: Vice-Chairperson, Secretary/Treasurer, and Chairpersons of standing committees.



Involving individuals who have expertise in areas of LEPC/TERC concern as at large members can be very effective. Although not official members, they can expand the knowledge base significantly. These individuals need not be carried on official LEPC/TERC membership rosters.

The DES Division is responsible for maintaining a listing of LEPC/TERC memberships. DES provides this information to the public, industry, federal agencies, and other state agencies and states. It is important that your LEPC/TERC membership is kept current and DES is kept informed of all membership changes. A current list of your LEPC/TERC membership must be forwarded to Disaster and Emergency Services every January for review/approval by the SERC at its February meeting. This will also be used to update your profile. (Appendix K)

Montana Disaster & Emergency Services (MTDES) maintains a synopsis on each LEPC and TERC consisting of contact information; membership categories; dates of meetings in which minutes have been submitted; listing of committees, subcommittees, taskforces, etc.; hosted trainings; and exercises. This information is obtained through the on-going submission of minutes, which updates changes and provides insight as to the LEPC and TERC's activities and accomplishments and through regular updates by the DES Coordinators. (APPENDIX K)

LEPC/TERC members are appointed by county commissioners/tribal council for an indefinite term but must be reviewed/approved by the SERC annually.

### **3. Subcommittees**

Dividing the work among subcommittees can facilitate planning and data management. Subcommittees allow members to specialize and help the process to move forward more quickly, because the LEPC/TERC can work on several projects at one time.

The appointment of a subcommittee chairperson may ensure that work progresses efficiently. The number and type of subcommittees that an LEPC/TERC creates should depend solely on its needs and its members. Subcommittees may be formed and disbanded as needed to accomplish initial and on-going tasks. Subcommittee membership does not need to be limited to LEPC/TERC members. You are encouraged to invite persons from various sectors of the jurisdiction for additional input and enhanced expertise.

In determining the type and number of subcommittees to establish, the LEPC/TERC should examine a number of factors regarding their current status and future expectations and goals. For example, members should try to answer the following questions:

- What are the goals of the LEPC/TERC this year?
- Do certain topics require much discussion/research?
- Is it necessary to establish subcommittees?

- Are there enough people, expertise, and leadership among LEPC/TERC members to maintain subcommittees?

The LEPC/TERC might appoint Subcommittees for the following:

- Gathering and reviewing existing community and facility emergency plans annually.
- Coordinating emergency response capabilities of LEPC/TERC member organizations.
- Checking emergency response equipment in the community.
- Identifying financial resources.
- Coordinating with other LEPC/TERC, Disaster and Emergency Services, and the DES District Representatives.
- Conducting a hazard analysis.
- Managing and providing information for citizens.
- Providing information to facilities.
- Promoting public awareness of EPCRA, community chemical hazards, and emergency response expected from the public.
- Researching and applying for grant opportunities

Some subcommittees your LEPC/TERC might designate are:

- A Planning Subcommittee, whose responsibilities may include:
  - Developing and assisting in the review of the Emergency Operations Plan.
  - Reviewing the site-specific Hazardous Materials Response Plans submitted for each facility with Extremely Hazardous Substances (EHS's).
  - Reviewing and updating the Emergency Operations Plan yearly.
- A Public Information Subcommittee, whose responsibilities may include:
  - Writing and publishing public notices.
  - Establishing an information retrieval system.
  - Performing citizen/neighborhood outreach to inform them of plans and other valuable information.
- A Training and Exercising Subcommittee, whose responsibilities may include:
  - Conducting a training needs assessment.
  - Requesting training grants available through the Disaster and Emergency Services and other sources to provide needed training.
  - Coordinating training programs.
  - Establishing an exercise schedule.

Once an assessment has been done by the LEPC/TERC and basic subcommittees have been formed, the LEPC/TERC may want to create additional subcommittees. Some examples are:

- An Executive Subcommittee who may do the following:
  - Appoint chairpersons for each subcommittee.
  - Develop long-term goals for your LEPC/TERC.
  - Tend to needs of the LEPC/TERC members.
  - Review LEPC/TERC membership terms and solicit volunteers to fill vacancies.
  - Be familiar with federal, state and local laws that impact the LEPC/TERC.
  - Develop a work plan with timetables for the other subcommittees.
- A Resource Development Subcommittee, whose responsibility may include:
  - Researching the resources in the community for emergency response.
  - Identifying alternative resources that the community may use in time of emergency or disaster.
  - Updating the local resource inventory.
  - Identifying other volunteer or in-kind assistance contributions (private sources such as business, industry, non-profit agencies etc.)
- An Emergency Response Subcommittee whose responsibilities may include:
  - Developing emergency response procedures for local government personnel that may be utilized in emergency response.
  - Establishing local Incident Command System procedures to strengthen and coordinate local government emergency response.
- A Finance Subcommittee, whose responsibilities may include:
  - Management of the LEPC/TERC budget.
  - Examining and recommending the use of funds.
- Business/Industry Outreach subcommittee, whose responsibilities may include:
  - Developing initiatives that will encourage active participation by the commercial businesses and industrial facilities in your community.

Reports on subcommittee activities can be made at the regularly scheduled LEPC/TERC meetings.

## **E. By-Laws**

Rules or by-laws for the LEPC/TERC should be established as required in EPCRA Section 301. The by-laws may include the following provisions:

- Public notification of committee activities.
- Public meetings to discuss the emergency plan.
- Public comment and response to these comments
- Distribution of emergency plan.
- Election of officers.

**NOTE:** See Appendix D for a sample of By-Laws

## **F. Meetings**

The frequency of LEPC meetings is not mandated but recommended at least quarterly. In order to keep the LEPC/TERC functioning effectively, quarterly scheduled meetings that address local issues and work toward progress on key concerns are important. Circumstances change frequently, along with key phone numbers and contacts. Quarterly meetings also offer the opportunity for the LEPC/TERC participants to become familiar with each other and their roles in the community. Some LEPC/TERC have their meetings on the same day each month so schedules can be planned in advance. Some have their meetings during the lunch hour and the involved agencies and industry take turns providing lunch during the meeting.

LEPC/TERC meetings are subject to the State Open Meetings Act. They should follow an organized format such as Robert's Rules, or some other guidelines. A well-planned agenda is an important tool for conducting effective meetings. The agenda should identify specific issues to be discussed as well as guest speakers. If needed, each agenda item may be assigned a time limit. The key is to follow the agenda and adhere to the time limits as they are set.

Each committee member should be sent, if possible, a copy of the agenda one to two weeks before the meeting, along with any pertinent information to allow the participants to prepare for the meeting. Again, the LEPC/TERC Chairpersons should determine how requirements under State Meeting rules apply to their meetings.

Posting of meeting dates, times and locations, oral public comments, and recording of meeting minutes may all be subject to State Rules. LEPC/TERC are encouraged to seek topics, speakers, invitations from facilities and response organizations and other opportunities to expand knowledge from a wide variety of sources. Each meeting should have a record keeper that will produce minutes, and a record of all actions. A copy of these minutes should be provided to all the members and will be forwarded to the State Disaster and Emergency Services (DES) office. Minutes of meetings are kept in the file and information is posted to your profile at DES . (Appendix K)

Although LEPC/TERC should attempt to have quarterly scheduled meetings, it may be beneficial to move meetings to different locations within the county. This will allow participants that may not be able to attend at one place and time the opportunity to attend at another. (See Appendix E for a Guide For Conducting Effective Meetings)

## **G. Administration**

Most LEPC/TERC are challenged with having to administer a program with little or no budget, and no office to work from. Despite this, they are required by law to respond to public inquiries about hazardous materials in their communities within 45 days. Keeping efficient records and using workspace provided by a LEPC/TERC member organization can still accomplish this. Some LEPC/TERC co-locate with the emergency management program or a local fire or law enforcement department. This can be a benefit to each organization involved.

### **1. Maintenance of Records**

At a minimum, LEPC/TERC must maintain the following records:

- ✓ Copy of Local Emergency Operations Plans and their annexes.
- ✓ Material Safety Data Sheets (MSDS) or information on where to obtain them.
- ✓ Initial and follow-up hazardous chemical spill reports.
- ✓ Records of LEPC/TERC and committee meetings (minutes).
- ✓ LEPC/TERC membership list.
- ✓ Tier II reports (**either paper or electronic**) for reporting facilities.
- ✓ Homeland Security related plans.

### **2. Information Resources**

EPCRA has existed for over ten years. During this period the resources available to LEPC/TERC have increased greatly. Today, assistance is available from all levels of government and from industry. The good news is, except for some computer software, most of this information is free to LEPC/TERC.

## **H. Public Inquiries and Awareness**

EPCRA requires LEPC/TERC to establish procedures for receiving and processing requests from the public for information under Section 312. EPCRA is based on the principal that the more known about hazardous chemicals in the community, the better prepared the community will be to manage these potential hazards and to improve public safety and health.

## **I. Funding LEPC/TERC Activities**

The cost of implementing EPCRA at the LEPC/TERC level will vary. Communities have found a wide range of solutions to the funding. Some examples are:

1. Volunteers and donated services  
Much of the work of the LEPC/TERC can be accomplished with little or no funding. Committee members often donate time and other resources. Local businesses and agencies have also contributed their services. Some LEPC/TERC have found that volunteers can be a great source of manpower.

2. Grants

- a. General

There are limited state and federal funds available to the LEPC/TERC through grant programs. Authorized by the 1990 Hazardous Materials Transportation Uniform Safety Act (HMTUSA), the Hazardous Materials Emergency Preparedness (HMEP) Program provides funding nationally for hazardous materials emergency response planning and training at the local level. The U.S. Department of Transportation (DOT) administers this program. The state share of this federal grant is administered by Disaster and Emergency Services in Montana. Refer to the HMEP Planning and Training Grant Application Kit information published annually by the MT DES Homeland Security Coordinator, Sheri Lanz. All questions relative to assistance for funding LEPC/TERC planning, training and/or exercise events fall under the HMEP grant program and will be directed to Sheri at MT DES (See Appendix J for HMEP grant program information).

- b. Other Federal Assistance:

The Federal Emergency Management Agency (FEMA) also provides funds for local emergency management through its State and Local Assistance (SLA) Program. DES administers this program in Montana.

3. Supplemental Environmental Projects (SEP's):

Once EPA has taken an action for not submitting a TIER II Chemical Inventory Report (Section 312) or emergency release notification (CERCLA Section 103/EPCRA Section 312), there is an alternative to simply imposing fines on the non-complying facility. Current federal enforcement policy authorizes consideration for mitigating the fines imposed if the offending facility agrees to perform a SEP. Enforcement actions provide an opportunity for the facility to become actively involved in the local planning and response process and to assist the LEPC/TERC in their activities. These agreements are an appropriate way to enforce EPCRA, since a SEP can be arranged to aid in its implementation. Through the use of SEPs, facilities have:

- ❖ Provided emergency or computer equipment to the LEPC/TERC

- ❖ Provided training to local emergency or planning personnel
- ❖ Become active members in the LEPC/TERC
- ❖ Participated in training and exercises
- ❖ Provided funding for public outreach

#### 4. Industry Donations

Some of the most active funding programs in the country for LEPC/TERC are through industries that are active members of the LEPC/TERC. Industry can provide not only funding for special projects, but equipment, and expertise.

There is no question that funds provided to the LEPC/TERC can be used for different purposes such as planning, training and exercises. The Bureau of Hazardous Materials is committed to supporting LEPC/TERC by providing funding obtained through EPA enforcement actions. Title III grant, DOT HMEP Planning & Training grants and other funding sources may be available in the future.

#### **J. Maintain a Healthy LEPC/TERC:**

Research shows most healthy LEPC/TERC:

- ❑ Have clearly defined goals.
- ❑ Have members that know what their “job” is in the LEPC/TERC.
- ❑ Have members with responsibilities and interests from broad-based community representation (not dominated by one segment).
- ❑ Have members that stay committed and interested because they:
  - feel useful and believe they are helping the community
  - have been given tasks according to their interests and expertise
  - have been given challenging tasks
  - are recognized for their contributions
  - have a chance to develop their own skills
- ❑ Have members that understand their purpose and value and share this with their superiors to gain support.
- ❑ Have working relationships with the state level agencies responsible for the program, and with their peers in other counties.
- ❑ Have meetings scheduled at regular, convenient times. (at least quarterly)
- ❑ Have meetings that adhere to the agenda and are concerned with common interests.
- ❑ Have a strong leadership and dedicated members.

## **SECTION III: REPORTING REQUIREMENTS FOR FACILITIES WITH HAZARDOUS MATERIALS**

### **A. What Hazardous Materials are Subject to Regulation?**

There are five groups of chemicals subject to reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Risk Management Plans (RMP's) under the Clean Air Act of 1990 (112R).

Some chemicals appear in several of these lists. These lists are:

- ✓ Extremely Hazardous Substances (EHS)
- ✓ Hazardous Substances
- ✓ Hazardous Chemicals
- ✓ Toxic Chemicals
- ✓ List of Toxics & Flammables

### **B. Hazard Chemical Inventory Reporting**

#### **1. General**

There are fixed facilities in almost every county, which use, produce and/or store hazardous chemicals. **The LEPC/TERC needs to be aware of all the facilities in their district, and especially the ones handling EHS.** These facilities may be privately or government owned and they all may be subject to some provisions of the law. Federal facilities also must comply with the provisions of the EPCRA.

#### **2. Hazardous Substance Inventory Reports**

##### **a. Emergency Preparedness Phase**

- (1) Identification of facilities subject to Special Planning Requirements:
  - ❖ Emergency planning letter submitted to the DEQ and LEPC/TERC when the facility has sufficient EHS's to warrant reporting.
  - ❖ All facilities must submit information about the types and amounts of chemicals present if requested by the fire chief or the LEPC/TERC.
- (2) Annual Chemical Inventory Reporting
  - ❖ Covered facilities must submit Tier II forms to the LEPC/TERC, local fire departments, and the DEQ by March 1<sup>st</sup> of each year.
  - ❖ If requested, covered facilities must submit MSDS's to the above agencies.
- (3) Annual Toxic Chemical Release Reporting
  - ❖ Covered facilities must submit written Toxic Chemical Release Inventory Form R (TRI) by July 1<sup>st</sup> of each year to EPA Headquarters and to DEQ.



**b. Emergency Response Phase**

Covered facilities or transporters must make immediate notification to an emergency 24-hour phone number designated by each LEPC/TERC, DES, DEQ and the National Response Center (NRC). In Montana, DES communications must be called at (406) 841-3911 to notify the state. Written follow-ups must be filed with the DEQ and the LEPC/TERC.

**c. Risk Management Program (RMP)(Clean Air Act Section 112 R)**

Important provisions in the amendments of the Clean Air Act advance the process of risk management planning. The amendments include specific provisions addressing accidental releases of hazardous chemicals.

On June 20, 1996, EPA promulgated rules and guidance for chemical accident prevention. These rules include requirements for sources (facilities) to develop and implement risk management programs that incorporate three elements: a hazard assessment, a prevention program, and an emergency response program. These programs are summarized in a RMP, which was to be submitted to EPA by June 21, 1996.

**It is important for LEPC/TERC to be familiar with these federal rules since they will clearly be affected by them. At a minimum, LEPC/TERC can expect to get involved in the following areas of the RMP rule:**

- ❑ Emergency Response Program of the final rule, which requires the owner or operator of a covered facility to, “provide the name and telephone of the local agency which the facility emergency response plan is coordinated.” Facilities may have approached LEPC/TERC with requests for the mentioned coordination. LEPC/TERC should familiarize themselves with those emergency plans.
- ❑ LEPC/TERC should make a point of reviewing at least the executive summary of all the risk management plans submitted by facilities within their planning areas. Not only will you find a short summary of the entire facility plan, but you will read about future changes planned to improve safety.
- ❑ LEPC/TERC should review the hazard assessments provided by the facilities. The vulnerable zones may add significantly to their planning efforts. Because of security concerns these assessments are not included on the Internet and should be discussed directly with the facility.

## **SECTION IV: EMERGENCY OPERATIONS PLAN DEVELOPMENT**

### **A. Minimum Requirements for the Plan**

#### **1. State Law**

Under the federal EPCRA law, each LEPC/TERC is to develop an emergency response plan and review it at least annually thereafter. Section 312 of EPCRA states that nothing in EPCRA will preempt any state or local law. Therefore, existing State Law governs local emergency management planning as long as it meets the requirements of EPCRA. Under State guidelines, LEPC/TERC develop emergency plans to meet the response and recovery needs during emergencies involving natural hazards, national security, and technological and man-made hazards (All Hazard Planning).

#### **2. Federal Hazmat Planning Requirements**

The LEPC/TERC planning envisioned by EPA was intended to complement the existing planning that state law already required instead of creating a separate process. In most situations, the LEPC/TERC did not develop a separate plan, but carried out the emergency planning requirements related to hazardous materials by adding a hazardous materials annex. In this way, the LEPC/TERC is an important resource useful to all local responders.

EPCRA requires that each hazardous materials emergency response plan does the following:

- identify facilities and transportation routes of extremely hazardous substances;
- describe emergency response procedures, on-site and off-site;
- designate a community emergency coordinator and facility coordinator(s) to implement the plan;
- outline emergency notification procedures;
- describe methods for determining the occurrence of a release and the probable affected area and population;
- describe community and industry emergency equipment and facilities, and the identity of persons responsible for them;
- outline evacuation plans;
- describe a training program for emergency response personnel (including schedules);
- present methods and schedules for exercising emergency medical personnel, fire services, and law enforcement agencies.

## **B. Hazard Analysis**

As you will notice while reading the criteria for developing a hazardous materials annex, some of your key tasks will be to identify facilities containing EHS's or to identify transportation routes likely to be used for the transportation of these substances. A hazard analysis will help identify these as well as the other hazards in your community. Planners should try to answer the following questions:

- What are the major hazards in our community?
- How can we determine the area or population likely to be affected by these hazards?
- What emergency response resources does our community need (Include personnel and equipment)?
- What kind of training is needed?
- How can we help prevent/mitigate these hazards?

The hazard analysis process can assist LEPC/TERC in answering these and other important planning questions.

## **SECTION V: EXERCISING THE PLAN AND EXERCISE EVALUATION**

EPCRA requires each plan to “present methods and schedules for exercising emergency response plans to emergency personnel, fire service, and law enforcement agencies”. Each LEPC/TERC, therefore, must develop and conduct an exercise to test and validate the various plan sections that relate to the local agencies, departments and organizations within the district to satisfy exercise requirements.

The LEPC/TERC must decide what objectives to test, select the type of exercise, the basic scenario, the participants, and when to conduct the exercise. They should appoint an Exercise Design Team to actually develop the exercise, including the scenario, messages, incident site, and control measures. The Team should consist of individuals experienced with the functions of the organization, agencies, and facilities involved in the exercise. One member should be designated as team chief or leader and be responsible for submitting appropriate progress reports to the LEPC/TERC. The team may want to meet initially with the Exercise Officer of DES to seek guidance and to ensure that exercise directives and procedures are understood. Obviously, the local Emergency Management Office will also have a major impact and input into this process. The LEPC/TERC should provide DES with notice of the exercise if it involves hazardous materials. This permits the state to participate as appropriate. There are various courses, exercise guidance, and evaluation documents available to assist the LEPC/TERC with exercises. These can be provided by your District Representative. The primary federal guidance documents for hazardous materials exercises that can be obtained are:

- ❖ FEMA's Cher-Cap Hazardous Materials Exercise Evaluation manual
- ❖ NRT-2 Developing a Hazardous Materials Exercise Program

- ❖ Office for Domestic Preparedness (ODP), Homeland Security Exercise and Evaluation Program (Volume I, Overview and Doctrine, May 2004 and Volume II, Exercise Evaluation and Improvement) October 2003

### **A. Exercise Development Suggestions**

Utilize the training and experience of all representatives of the LEPC/TERC and of others in the community in the planning of the exercise.

The LEPC/TERC should start planning many months prior to the expected date of the exercise to determine the type, scale and objectives of the exercise.

Appoint an Exercise Design Team and provide them guidance on what type of exercise the LEPC/TERC would like to conduct. Have the Exercise Design Team provide them with briefings and identify any needs or requirements they should be made aware of. **NOTE:** The team members should not participate directly in the exercise as players, but could serve as Controllers during the exercise.

Arrange for a meeting between the team and the DES District Representative for guidance to insure the exercise meets all applicable state planning and exercising requirements. Insure that all participating departments, agencies, and organizations:

- ✓ are aware of the exercise;
- ✓ wish to participate
- ✓ receive general information on the exercise
- ✓ know what will be expected of them during the exercise.

The LEPC/TERC may wish to schedule pre-exercise training and/or drills to assist individuals or organizations in preparing for the exercise.

### **B. Exercise Design Course, Review of Exercises, Credit**

Periodically FEMA certified courses in designing, conducting, and evaluating exercises are taught. Interested individuals can contact their District Representatives for course information, dates and applications.

The District Representatives can also assist in getting evaluators for exercises conducted in communities. However, the LEPC/TERC should provide sufficient evaluators who are qualified by training and/or experience to conduct an evaluation of the objectives they will be assigned to review.

LEPC/TERC may request exercise credit for their local emergency management office for an actual incident that occurred in, or affected the district. This credit, if granted, may be used to satisfy the annual exercise requirements for emergency management offices.

When the LEPC/TERC conducts a full-scale exercise, there should be a publically announced critique. Their critique could be done in conjunction with their meeting or it could be scheduled separately.

Critiques and debriefings are important to the participants as well as the LEPC/TERC. The participants want to know what the evaluator observed and the recommendations they have. Debriefings should be conducted immediately after the exercise, usually at the site while all the participants are still present.

Critiques bring the participants together and allow them to listen to the comments of the evaluators as they review the exercise. A public critique is required after each full-scale exercise. Finally, the LEPC/TERC should assemble the various heads of the participating agencies, departments, groups or organizations to discuss the exercise. They should discuss how the exercise actions met or conflicted with procedures outlined in the plan. They should identify which plan changes, if any, need to be made. Any changes recommended will be brought to the LEPC/TERC and should be reviewed and possibly included in the next plan revision. After completion of the exercise and critique a copy of the after action report and critique will be forwarded to Disaster and Emergency Services for inclusion in their folder and profile. (Appendix K)

## **SECTION VI: HAZMAT RESPONSE OPTIONS**

### **A. Local Government Response to Hazardous Substance Incidents**

#### **1. General**

Both Federal and state statutes indicate the person responsible for the spill (spiller) is responsible for the clean up. Local government must be prepared to implement appropriate notification and response actions in order to save lives and property during a HAZMAT incident. In Montana, call Disaster and Emergency Services at (406) 841-3911 to make your notifications and receive advice and assistance.

#### **2. Local Response**

##### **a. Firefighters and HazMat Teams**

Most jurisdictions assign the responsibility of hazardous substance spills response to the local or district fire department. Proper training and equipment necessary for hazardous substance response is costly in manpower and dollars, so capabilities vary considerably throughout the state. First responders should have the training to recognize immediately whether their team has the proper training and equipment to handle the incident. Some fire departments in Montana have specially trained personnel that have the capability to respond to a hazardous materials incident in their jurisdiction. If assistance is needed in the form of manpower, equipment, or just advice it can be obtained by calling Disaster and Emergency Services at (406) 841-3911 (See Appendix F)

##### **b. Local Emergency Response Authority (LERA)**

The Montana Response to Hazardous Incidents act requires cities and counties to designate a Local Emergency Response Authority (LERA) for hazardous materials incidents that occur within their jurisdictions. Cities and counties are encouraged to appoint a response authority whose members are trained in hazardous substance incident response. If the jurisdiction does not have a LERA designated, the presiding officer of the board of county commissioners must be the local emergency response authority for the incident. (See Appendix B Title 10, Chapter 3, Part 12.) Also, Tribal Nations are encouraged to appoint a response authority whose members are trained in hazardous substance incident response as well.

c. Incident Command System (ICS)

Under 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response, OSHA requires the use of the Incident Command System (ICS) by private organizations responding to hazardous substance spills. EPA's 40 CFR 311 refers response actions and related worker safety and health for state and local employees to the OSHA citation. The designated, or local senior emergency response official on-scene is usually the Incident Commander (IC). State and Federal On Scene Coordinators (OSC) are expected to work under the Incident Command System (ICS) at all incidents, and are considered to be resources for the local Incident Commander.

d. HAZMAT Contractors

The Department of Environmental Quality maintains a list of companies that are providers of various HAZMAT services within the state. Although they do not license, certify, recommend or otherwise regulate these vendors, the state can provide a list of contractors to the responsible party "spiller" for site clean up. If the spiller does not act promptly, the state can request a contractor to perform the clean up and bill the spiller for the costs.

**B. Reimbursement to Local Governments for Emergency Response to Hazardous Substance Incidents. (Cost Recovery)**

All hazardous materials incident expenses, including staff time, incurred by each responding agency should be carefully documented by those agencies and submitted to the Disaster and Emergency Services using the cost recovery packet provided by DES. All cost recovery claims must be submitted to the Disaster and Emergency Services within 60 days of the termination of the incident. (See Appendix G for a sample Cost Recovery Packet.)

## **SECTION VII: LEPC/TERC TRAINING AND EDUCATION PROGRAMS**

### **A. General**

EPCRA requires that each plan, “describe a training program for emergency response personnel (including schedules)”. These programs should be made available for all emergency response, management, and facility personnel. Additionally, the LEPC/TERC should train its own members in their respective areas of responsibility. It should also work together with the Local Emergency Management Office in training such groups as the EOC staff, officials, and others regarding plans, exercises, and other activities.

### **B. Training Program Considerations**

The LEPC/TERC should:

- ✓ Determine what training needs exist.
- ✓ Identify personnel to be trained.
- ✓ Obtain funding.
- ✓ Determine where and when training will be held.

The LEPC/TERC should also consider the implementation of a training and education program for the jurisdiction that includes training already scheduled and conducted by DES, the various first response agencies and organizations, as well as other training activities relating to mitigation, preparedness, response and recovery.

The LEPC/TERC should coordinate with the various district associations (Fire, EMS, Law etc.) to combine training efforts. Combining training sessions has many benefits, such as:

- ✓ Attracting more participants
- ✓ Cost savings
- ✓ Training more people with fewer instructor, and most importantly, the students get to know each other, and the roles and responsibilities of their agencies.

### **C. Organization for Training**

Each LEPC/TERC will have to determine how the jurisdiction can best organize, set-up, and conduct a productive training and education program. Each area is different, and each LEPC/TERC should develop a program that benefits its people in accordance with State and Federal training standards. One way a LEPC/TERC might approach establishing a training and education program is to appoint a Training Sub-Committee. This group could contain representatives of Fire, Law Enforcement, Facility, EMS, and Emergency Management organizations. Their tasks could be to:

- ✓ identify what training needs exist
- ✓ identify what training is currently available
- ✓ identify the training goals of the various organizations.

This information could then be presented to the entire LEPC/TERC at the regularly scheduled meetings.

### **D. Continued Training and Education Programs**

The various training and education programs conducted or arranged by the LEPC/TERC for Emergency Management and LEPC/TERC participants and officials should be considered an on-going program based on the assessment of the needs.

The Training and Education Sub-Committee should carefully review training already provided, assess current and future needs and develop their programs accordingly

The Training Sub-Committee should be familiar with 29 CFR 1910.120, which requires initial, management and supervisor, emergency response, and refresher training.

### **E. Summary**

Training of all personnel is important, but the training of individuals that must respond to a HAZMAT incident is critical. This is not only because of concern for the health and welfare of the responder, but for the community as well. All emergency responders must be properly trained and equipped if they are to successfully handle incidents. The LEPC/TERC has a responsibility to coordinate, support and assist the various agencies, departments, organizations, and groups with their training programs.



## **APPENDIX A**

### **EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT (EPCRA) OVERVIEW**

EPCRA was passed in response to concerns regarding the environmental and safety hazards posed by the storage and handling of toxic chemicals. These concerns were triggered by the disaster in Bhopal, India, in which more than 2,000 people suffered death or serious injury from the accidental release of methyl isocyanate. To reduce the likelihood of such a disaster in the US, Congress imposed requirements on both states and regulated facilities.

EPCRA establishes requirements for Federal, State and local governments, Indian Tribes, and industry regarding emergency planning and “community right to know” reporting on hazardous and toxic chemicals. The community right to know provisions help increase the public’s knowledge and access to information on chemicals at individual facilities, their uses, and releases into the environment. States and communities, working with facilities, can use the information to improve chemical safety and protect public health and the environment.

- EPCRA has four major provisions:
- Emergency planning, Section 301-303
- Emergency release notification, Section 304
- Hazardous chemical storage reporting requirements, Sections 311-312 and
- Toxic chemical release inventory, Section 313

The Governor of each state has designated a State Emergency Response Commission (SERC). Each SERC is responsible for implementing EPCRA provisions within their state. The SERC approves the membership of LEPC/TERCs within the state. They supervise and coordinate the activities of the LEPC/TERC, establish procedures for receiving and processing public requests for information collected under EPCRA, and reviews local emergency response plans. LEPC/TERCs must develop an emergency response plan, review it at least annually, and provide information about chemicals in their community to their citizens.

The emergency planning section of the law is designed to help communities prepare for and respond to emergencies involving hazardous substances. Every community in the United States must be part of a comprehensive plan.

Regulations implementing EPCRA are codified in the Code of Federal Regulations (CFR). For more detailed information/requirements see hazardous chemical inventory, storage and reporting in your community and/or refer to the EPCRA Overview in website: [epa.gov](http://epa.gov).

## APPENDIX B

### RESPONSE TO HAZARDOUS MATERIALS INCIDENTS

#### Part 12

#### Response to Hazardous Materials Incidents

**10-3-1201. Short Title.** This part may be cited as the “Montana Response to Hazardous Material Incidents Act”.

**10-3-1202. Purpose.** It is the purpose of this part to:

- (1) Provide that adequate hazardous material emergency response capability exists in the state in order to protect the health and safety of Montana citizens and the environment.
- (2) Delineate those state agencies responsible for responding to a hazardous material incident.
- (3) Provide for the control and management of incidents.
- (4) Provide for the cooperation of other state agencies and local governments in incident management.
- (5) Provide for the formulation of a comprehensive, statewide incident management and hazardous material response support plan.

**10-3-1203. Definitions.** As used in this part, the following definitions apply:

- (1) “Commission” means the state emergency response commission.
- (2) “Division” means the division of disaster and emergency services in the department of military affairs.
- (3) “Duration of response” means a period of time beginning when an emergency responder is requested by the appropriate authority to respond to an incident and ending when the responder is released from the incident by the incident commander and returned to the emergency responder’s place of residence by the most direct route and includes the time required to replace and return all materials used for the incident to the same or similar condition and state of readiness as before the incident.
- (4) “Hazardous Material” means a hazardous substance, a hazardous or deleterious substance as defined in 75-10-701, radioactive material, or a combination of a hazardous substance, a hazardous or deleterious substance, and radioactive material.
- (5) “Hazardous material incident response team” means an organized group of trained response personnel, operating under an emergency response plan and appropriate standard operating procedures, that is expected to perform work to control an actual release or threatened release of hazardous material requiring close approach to the material, to respond to releases or threatened release of hazardous material for the purpose of control or stabilization of the incident, and to provide technical assistance to local jurisdictions.
- (6) (a) “Hazardous substance” means flammable solids, semisolids, liquids, or gases; poisons; explosives; corrosives; compressed gases; reactive or toxic chemicals; irritants;

or biological agents. (b) The term does not include radioactive material. "Incident" means an event involving the release or threat of release involving hazardous material that may cause injury to persons, the environment, or property.

- (7) "Incident Commander" means the person who is designated in the local emergency operations plan.
- (8) "Local emergency operations plan" means the local and inter-jurisdictional disaster and emergency plan developed pursuant to 10-3-401.
- (9) "Local emergency response authority" means the agency designated by the city, county, or commission to be responsible for the management of an incident at the local level.
- (10) "Orphaned hazardous material," means hazardous material of which the owner cannot be identified.
- (11) "Plan," means the Montana incident management and hazardous material response support plan.
- (12) (a) "Radioactive material" means any material or combination of material that spontaneously emits ionizing radiation. (b) The term does not include material in which the specific activity is not greater than 0.002 micro curies per gram of material unless the material is determined to be radioactive by the U.S. environmental protection agency or the U.S. occupational safety and health administration.
- (13) "State hazardous material incident response team" means persons who are designated as state employees by the commission while they are engaged in activities as provided for in 10-3-1204 and may include members of the commission and local and state government responders.
- (14) "Threat of release" or "threatened release" means an indication of the possibility of the release of a hazardous material into the environment.

**Section 1.** Section 10-3-1204, MCA, is amended to read:

**10-3-1204. State emergency response commission.**

(1) There is a state emergency response commission that is attached to the department for administrative purposes. The commission consists of 27 members appointed by the governor. The commission must include representatives of the national guard, the air force, the department of environmental quality, the division, the department of transportation, the department of justice, the department of natural resources and conservation, the department of public health and human services, a fire service association, the fire training school, the emergency medical services and injury prevention section of the health policy and services division in the department of public health and human services, the department of fish, wildlife, and parks, a representative of Montana hospitals, an emergency medical services association, a law enforcement association, an emergency management association, a public health-related association, a trucking association, a utility company doing business in Montana, a railroad company doing business in Montana, the university system, a local emergency planning committee, a tribal emergency response commission, the national weather service, the Montana association of counties, the Montana league of cities and towns, and the office of the governor. Members of the commission serve a term of 4 years and may be reappointed. The members shall serve without compensation. The governor shall appoint two presiding officers from the appointees, who shall act as co-presiding officers.

- (2) The commission shall implement the provisions of this part, and in so doing; the commission may create and implement a state hazardous material incident response team to respond to incidents. The members of the team must be certified in accordance with the plan.
- (3) The commission may enter into written agreements with each entity or person providing equipment or services to the state hazardous material incident response team.
- (4) The commission or its designee may direct that the state hazardous material incident response team be available and respond, when requested by a local emergency response authority, to incidents according to the plan.
- (5) The commission may contract with persons to meet state emergency response needs for the state hazardous material incident response team.
- (6) The commission may advise, consult, cooperate, and enter into agreements with agencies of the state and federal government, other states and their state agencies, cities, counties, tribal governments, and other persons concerned with emergency response and matters relating to and arising out of incidents.
- (7) The commission may encourage, participate in, or conduct studies, investigations, training, research, and demonstrations for and with the state hazardous material incident response team, local emergency responders, and other interested persons.
- (8) The commission may collect and disseminate information relating to emergency response to incidents.
- (9) The commission may accept and administer grants, gifts, or other funds, conditional or otherwise, made to the state for emergency response activities provided for in this part.
- (10) The commission may prepare, coordinate, implement, and update a plan, which coordinates state and local emergency authorities, to respond to incidents within the state. The plan must be consistent with this part. All state emergency response responsibilities relating to an incident must be defined by the plan.
- (11) The commission has the powers and duties of a state emergency response commission under the federal Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001, et seq., except that the division shall oversee the creation, annual local review, and exercise and revision of the local emergency operations plan as provided by state law.
- (12) The commission shall promulgate rules and procedures limited to cost recovery procedures, certification of state response team members, and deployment of the state hazardous material incident response team, which must be a part of the plan.
- (13) The commission shall act as an all-hazard advisory board to the division by:
  - (a) Assisting the division in carrying out its responsibilities by providing the division with recommendations on issues pertaining to all-hazard emergency management; and

(b) Authorizing the establishment of subcommittees to develop and provide the recommendations called for in subsection (13)(a).

(14) All state agencies and institutions shall cooperate with the commission in the commission's efforts to carry out its duties under this part.

**10-3-1205 and 10-3-1206 reserved.**

**10-3-1207 Commission budget and expenditures.**

- (1) The commission shall submit its budget to the division.
- (2) The commission shall expend any funds appropriate to it in the following priority:
  - (a) Payment of workers' compensation premiums for coverage of state hazardous material incident response team members;
  - (b) Training activities for the state hazardous material incident response team;
  - (c) Equal payments to each hazardous material incident response team as compensation for duties established in the plan; and
  - (d) Any remaining funds to be used at the discretion of the commission for programs related to the plan.

**10-3-1208 Local emergency response authorities--designation.**

- (1) The governing body of each incorporated city and county shall designate the local emergency response authority for incidents that occur within its jurisdiction.
- (2) Local emergency response authority members must be trained in hazardous material incident response in compliance with 29 CFR 1910.120(q), as amended.
- (3) An incorporated city may, with the mutual consent of the county, designate the county as its local emergency response authority and participate in the local emergency operations plan for incident response.
- (4) If an incident occurs in an area in which local emergency response authority has not been designated, the presiding officer of the board of county commissioners must be the local emergency response authority for the incident for the purposes of this part.

**10-3-1209 Local emergency response authorities—powers and duties.**

- (1) Every local emergency response authority designated pursuant to this part shall respond to incidents occurring within its jurisdiction according to the local emergency operations plan. The local emergency response authority shall also respond to an incident that initially occurs within its jurisdiction but spreads to another jurisdiction. If an incident occurs on a boundary between two jurisdictions or in an area where the jurisdiction is not readily ascertainable, the first local emergency response authority to arrive at the scene of the incident shall perform the initial emergency response duties.
- (2) Each local emergency response authority shall define in writing its incident management system and specifically define the agency that will be the incident commander.
- (3) The incident commander shall declare that the emergency situation associated with an incident has ended when the acute threat to public health and safety or to the environment has been sufficiently addressed.

**10-3-1210 Controlling provisions for state of emergency—liability of responsible persons.**

In the event that a state of emergency is declared by proper authority pursuant to 10-3-3012, as the result of an incident, the provisions of 10-3-303 govern.

**10-3-1211 Notification of release.**

- (1) A person responsible for reporting a release under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9603, shall, as soon as practicable after obtaining the knowledge of a required reportable release, other than a permitted release, notify the division of the release.
- (2) The division shall notify the commission of releases or threatened releases as defined in the plan.
- (3) The division shall immediately notify the department of environmental quality of any release reported and who will respond according to the plan.
- (4) Any person who does not make notification in accordance with the provisions of this section is liable for a civil penalty not to exceed \$10,000 for each day the violation continues to a maximum of \$100,000. These penalties are in addition to any other penalties imposed by law. All penalties collected must be deposited in the environmental contingency account provided for in 75-1-1101.
- (5) Compliance with the reporting requirements of this section does not relieve any person of the obligation to report the same incident under any other applicable state or federal law, regulation, or other requirement.

**10-3-1212 and 10-3-1213 reserved.**

**10-3-1214 Right to reimbursement.**

- (1) State hazardous material incident response team members may submit claims to the commission for reimbursement of document costs incurred as a result of the team's response to an incident. Reimbursement for the costs may not exceed the duration of the response.
- (2) A party who is not a part of the state hazardous material incident response team is not liable under federal or state law may submit a claim to the commission for costs if the claim is associated with a request by the state hazardous material incident response team or the commission.
- (3) Claims for reimbursement must be submitted to the commission within 60 days after termination of the response to the incident for the state's determination of payment, if any.
- (4) Reimbursement may be made only after the commission finds that the actions by the applicant were taken in response to an incident as defined in this part and if adequate funds are available.

**10-3-1215 Deficiency warrants for reimbursement of response costs.**

- (1) (a) The commission shall review all claims for reimbursement and make recommendations to the governor as to payment or nonpayment of the claims within 90

days of receipt. The governor may authorize the issuance of warrants to be paid from the environmental contingency account provided for in 75-1-1101 to the limit of the fund balance for the purpose of reimbursing reasonable and documented costs associated with emergency actions taken pursuant to this part. (b) The costs of routine firefighting procedures are not reimbursable costs under this part.

- (2) Reimbursement must be in accordance with the schedule defined in the plan.
- (3) The decision of the governor is final and non-appealable.
- (4) This section may not be construed to change or impair any right of recovery or subrogation arising under any other provision of law.

### **10-3-1216 Cost recovery and civil remedies.**

- (1) Cost recovery is the duty of the city or county having authority where an incident occurred.
- (2) The commission shall ensure the recovery of state expenditures according to the plan.
- (3) A person responsible for an incident is liable for attorney fees and costs of the commission incurred in recovering costs associated with responding to an incident.
- (4) The remedy for the recovery of emergency response costs identified in this part is in addition to any other remedy for recovery of the costs provided by applicable federal or state law.
- (5) Any person who receives compensation for the emergency response costs pursuant to any other federal or state law is precluded from recovering compensation for those costs pursuant to this chapter.
- (6) Except for the commission, the state hazardous material incident response team, and the local emergency response authority, this part does not otherwise affect or modify in any way the obligations or liability of any person under any other provision of state or federal law, including common law, for damages, injury or loss resulting from the release of any hazardous material or for remedial action or the costs of remedial action for a release or threatened release.
- (7) Any person who is not a liable party under the federal Comprehensive Environmental Response, Commission, and Liability Act of 1980, 42 U.S.C. 9601, et seq., as amended, or the Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7, and who renders assistance in response to an emergency situation associated with an incident may file a civil action against the responsible party for recoverable costs that have not been reimbursed by the state.
- (8) Recoveries by the state for reimbursed costs under this section must be deposited in the environmental contingency account to offset amounts paid as reimbursement.
- (9) (a) In the event of orphaned hazardous material or the inability of the state to recover the full cost associated with an incident and the cost of collection described in this section, the state shall recover from the city or county having authority where the incident occurred an amount equal to 25% of the total cost identified pursuant to this part. (b) When the hazardous material incident occurs in or involves multiple jurisdictions, the collectible amount must be equally divided among the jurisdictions.

### **10-3-1217 Liability of persons and response team members rendering assistance.**

The state or a political subdivision of the state, the commission, the local emergency response authority, and the state hazardous material incident response team or, except for willful

misconduct, gross negligence, or bad faith, an employee, representative, or agent of the state or a political subdivision of the state, the commission, the local emergency response authority, and the state hazardous material incident response teams is not liable under this part for injuries, costs, damages, expenses, or other liabilities resulting from the release or threatened release or remedial action resulting from the release or threatened release of a hazardous material. The immunity includes but is not limited to indemnifications, contribution, or third-party claims for wrongful death, personal injury, illness, loss or damages to property, or economic loss. A person becomes a member of the state hazardous material incident response team when the person is contacted, dispatched, or requested for response regardless of the person's location.

**10-3-1218 Required assistance in hazardous material incident.**

An owner or agent of the owner of a hazardous material involved in an incident, a person causing an incident, a person transporting a hazardous material involved in an incident, and a person owning or occupying property involved in an incident shall assist the state as requested by the incident commander in responding to an emergency situation associated with the incident as may be necessary to address an acute threat to public health or safety or to the environment until the incident commander declares that the emergency situation is over.



## APPENDIX C

### LEPC/TERC MEMBER NOMINATION LETTER

#### SAMPLE SAMPLE SAMPLE SAMPLE SAMPLE SAMPLE

#### *Your Letterhead*

Daniel McGowan  
Disaster and Emergency Services  
1900 Williams  
PO Box 4789  
Fort Harrison, MT 59636-4789

Dear Mr. McGowan:

In compliance with the Emergency Planning and Community Right to Know Act (EPCRA), it is the responsibility of the Board of County Commissioners/Tribal Council of each jurisdiction to submit names in nomination for Local Emergency Planning Committee (LEPC) or Tribal Emergency Response Commission (TERC) membership to the State Emergency Response Committee thru Disaster and Emergency Services.

We have acquired for your review, consideration and for submittal to Disaster and Emergency Services (DES), the following nominees who have shown an interest in assisting \_\_\_\_\_ County/Tribal Nation in meeting obligations and requirements for the continuing development of a LEPC/TERC. These appointments would be for an indefinite term.

Nominees:

Name or Title (Address, Phone)	Department	Position (Chairman, Vice-Chairman, Secretary, Treasurer, Member etc.)
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Sincerely,  
BOARD OF COUNTY COMMISSIONERS/OR TRIBAL CHAIR  
(Signatures)

**APPENDIX D**

**SAMPLE LEPC/TERC BY-LAWS, LEPC/TERC HANDBOOK**

**SAMPLE SAMPLE SAMPLE SAMPLE SAMPLE SAMPLE SAMPLE**

**By-Laws**

\_\_\_\_\_ County/Tribe

**(Line out non-applicable committee/commission)**

**Local Emergency Planning Committee (LEPC)  
Tribal Emergency Response Commission (TERC)**

**ARTICLE I**

**Members**

As a minimum, the LEPC/TERC shall consist of representatives from each of the following groups or organizations: elected tribal officials, elected officials; law enforcement; emergency management; fire response; emergency medical services; environmental; hospital; transportation; media; community groups; owners and operators of facilities subject to reporting under the Emergency Planning and Community Right-to-know Act (EPCRA); and the general public.

**ARTICLE II**

**Officers**

Officers of the LEPC/TERC shall be the Chairman, Vice-Chairman, Secretary and Treasurer. The Chairman, Vice-Chairman and Treasurer shall be elected by the members of the LEPC/TERC and shall hold office for two years. Elections will be held in the month of September and new officers will take office on October 1 of the year elected. The Chairman and Treasurer shall be elected in odd numbered years and the Vice-Chairman shall be elected in even numbered years. In the event of the Vice-Chairman becoming Chairman, a special election will be held for the remainder of the Vice-Chairman's term of office.

**ARTICLE III**

**Meetings**

Meetings are open to the public and shall be held on a regularly scheduled basis.(recommended at least quarterly) Notice of all meetings shall be published in the local media at least five days prior to the day of the meetings.

**ARTICLE IV**  
**Public Availability**

The \_\_\_\_\_ County/Tribal LEPC/TERC shall annually publish a notice in the (local Newspaper, bulletin etc) \_\_\_\_\_ during the month of May, advising that the Hazardous Materials Response Plan Annex, Material Safety data Sheets (MSDS) or chemical inventory lists, and follow-up emergency notices are available for public review; consistent with Section 322 of the Emergency Planning and Community Right-to-Know Act (EPCRA). The public notice shall also state that follow-up emergency notices may be issued.

The public may review these documents at \_\_\_\_\_, during normal office hours.

**ARTICLE V**  
**Public Request for Information**

Any person may submit a written request for information under Sections 311,312, and 324 of EPCRA. Requests shall be addressed to the \_\_\_\_\_ County/Tribal LEPC/TERC (Address). The LEPC/TERC shall respond to requests for information no later than 45 days from the receipt of request. The LEPC/TERC Chairman shall serve as the Coordinator of Information.

**ARTICLE VI**  
**Public Comment**

Public comments concerning the Hazardous Materials Response Plan Annex, or LEPC/TERC activities in general are welcome. The Hazardous Materials Response Plan Annex will be open for discussion at every LEPC/TERC meeting. Comments or questions directed to the LEPC/TERC will be answered in writing within 14 working days, after appropriate coordination.

**ARTICLE VII**  
**Distribution of the Hazardous Materials Response Plan Annex**

Routine distribution of the Response Plan will be in accordance with operational needs. Copies of the most recent published plan will be available for public review in/at the \_\_\_\_\_ during normal office hours.

**ARTICLE VIII**  
**Dissolution of LEPC/TERC**

In the event that the \_\_\_\_\_ County/Tribal LEPC/TERC is dissolved or becomes inactive as determined by the \_\_\_\_\_ County Commissioners/Tribal Council; all equipment and LEPC/TERC responsibilities shall revert to the \_\_\_\_\_ County Commissioners/Tribal Council.

## APPENDIX E

### GUIDE FOR CONDUCTING EFFECTIVE MEETINGS,

#### A GUIDE FOR LEPC's/TERC's

Meetings are not usually very high on anyone's like-to-do-list. Unfortunately, they seem to be an ever increasing part of our lives. This section of the LEPC/TERC Handbook will offer some suggestions on how to conduct more productive meetings. We hope these ideas prove helpful. Use what works for you, ignore what doesn't and add your own improvements as needed.

#### HOW TO PITCH A BETTER MEETING

PITCH is the acronym for this five step process for conducting better meetings:

**P**lan

**I**nform

**T**arget

**C**ontain

**H**asten

**PLAN** the meeting being clear about:

1. The purpose of the meeting
2. Agenda items.
3. The desired outcome.
4. What arrangements need to be made.
5. How long the meeting will last.

**INFORM** meeting participants of:

1. The purpose of the meeting
2. Agenda items.
3. The desired outcome.
4. Date, time and location
5. Any previous assignments.

**TARGET** productive discussion by:

1. Stating and clarifying the purpose of the meeting
2. Getting agreement on desired outcomes.
3. Allowing for modification of the agenda (including adding or deleting items, changing the order, or adjusting the times allocated).

**CONTAIN** the discussion to the agreed-upon agenda by:

1. Having someone in charge and someone to act as recorder.
2. Adhering to the agenda unless the group explicitly agrees to alter it.
3. Confronting behavior that diverts the group from attaining its desired outcomes.
4. Encouraging each LEPC/TERC member attending to participate fully.
5. Getting agreement on action steps, responsibilities and target dates.

**HASTEN** the completion of agreed-upon desired outcomes by:

1. Summarize the meeting.
2. Recording the decisions that were made.
3. Recording the names of persons responsible for implementing action steps and the target dates.
4. Agreeing on a date for the next meeting.
5. Evaluating every meeting and agreeing on ways to improve.
6. Editing and distributing minutes.
7. Putting unfinished business on the agenda for the next meeting.
8. Following up and encouraging task completion.
9. Monitoring and evaluating the results achieved by the group.

### **ROLE OF THE CHAIRMAN OR MEETING FACILITATOR**

1. Summarize the last meeting.
2. Appoint a recorder.
3. Remind members of any commitments or agreements they make for this meeting.
4. Review and clarify the agenda if necessary.
5. Prioritize tasks if the agenda hasn't already done so.
6. Establish specific outcomes desired for this meeting.
7. Establish time frames for each task.
8. Keep the meeting moving.

### **KEEPING A MEETING GOING**

The chairman or meeting leader should:

1. Keep the members on task.
2. Check for agreement or disagreement.
3. Track progress on the agenda.
4. Provide ongoing feedback to the group-summarize, paraphrase, restate frequently.
5. Protect against domination by a few individuals.
6. Call on silent members to participate.
7. Protect individuals from personal attack.
8. Suggest alternatives or options.
9. Bring conflicts to the surface.
10. Call for breaks.

## **APPENDIX F**

### **HOW THE MONTANA HAZMAT INCIDENT MANAGEMENT AND RESPONSE SUPPORT PLAN WORKS**

- ✓ Local jurisdiction determines if it is a Hazardous Materials Incident (chemical, radiological or biological).
- ✓ Incident Commander notifies local dispatch who in turn notifies Disaster and Emergency Services (DES) at 841-3911.  
(Incident Commander or representative may notify DES directly)
- ✓ DES at a minimum:
- ✓ Contact State Incident Response Team for a hazardous material tech  
Contact Department of Environmental Quality (DEQ)
- ✓ Incident Commander sets a time for conference call. Typically within ten (10) minutes of initial notification.
- ✓ Initial conference (classification) call will include: DES Duty officer, DEQ, Incident Commander (or other local representative), and Regional Response Team member.
- ✓ Call will identify type and scope of incident, assistance needed, and classification by consensus of all parties on call.
- ✓ If other assistance or advice is requested or required, a second conference call time may be set with additional parties.
- ✓ DES performs incident notifications depending on classification.

**SEE MONTANA HAZARDOUS MATERIALS MANAGEMENT COMMAND & RESPONSE SUPPORT PLAN FOR EXPLANATION OF CLASSIFICATIONS, NOTIFICATIONS, AND AVAILABLE ASSISTANCE.**

**APPENDIX G**

**COST RECOVERY PACKET**



**HAZARDOUS MATERIALS  
EMERGENCY RESPONSE INCIDENT REPORT  
NUMBER: \_\_\_\_\_**

AGENCY SUBMITTING CLAIM \_\_\_\_\_ INCIDENT DATE: \_\_\_\_\_  
COMPLETED BY \_\_\_\_\_ PHONE # \_\_\_\_\_

INCIDENT LOCATION \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP: \_\_\_\_\_

COUNTY: \_\_\_\_\_ GPS: \_\_\_\_\_

TIME INCIDENT STARTED: \_\_\_\_\_ ENDED \_\_\_\_\_

TIME RESPONSE BEGAN: \_\_\_\_\_ ENDED \_\_\_\_\_

INCIDENT COMMANDER \_\_\_\_\_

RESPONSE TEAM LEADER \_\_\_\_\_

RESPONDING \_\_\_\_\_  
\_\_\_\_\_

SOURCE/CAUSE OF RESPONSE \_\_\_\_\_  
\_\_\_\_\_

PARTY \_\_\_\_\_ KNOWN \_\_\_\_\_ UNKNOWN \_\_\_\_\_

PRIMARY RESPONSIBLE PARTY/SUSPECT NAME: \_\_\_\_\_

CONTACT NAME \_\_\_\_\_ TITLE \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE \_\_\_\_\_ MESSAGE PHONE \_\_\_\_\_

INSURANCE COMPANY \_\_\_\_\_ AGENT \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE \_\_\_\_\_ MESSAGE PHONE \_\_\_\_\_  
SPILL INFORMATION \_\_\_\_\_

\_\_\_\_\_

CHEMICALS INVOLVED \_\_\_\_\_

SUMMARY OF RESPONSE ACTION \_\_\_\_\_

\_\_\_\_\_

ADDITIONAL INFORMATION \_\_\_\_\_

\_\_\_\_\_

DOCUMENTATION ATTACHED: \_\_\_\_ PHOTOS \_\_\_\_ VIDEO \_\_\_\_ RECEIPTS  
\_\_\_\_ NARRATIVE/TIMELINE

**APPENDIX G, HAZARDOUS MATERIALS  
COST RECOVERY PACKET, MT-DES**

**PERSONNEL COSTS**

**DIRECTIONS:** Please complete this form for reimbursement of personnel cost for each employee that was recalled, paid on call, or who worked overtime as a result of the hazmat incident. Record their hourly pay including your department's benefits rate, whether they worked OT, recalled, or were paid on call, total response hours, a brief description of their on-scene duties and indicate their appropriate training level(s).

**DEPARTMENT NAME:**

**TRAINING LEVEL:**

Name	Duty Status (OT, Recall, Paid on Call)	Hourly Rate Plus Benefits	Total Hours	Total Amount	On-Scene Duties	Awareness Operations Technician Incident Command
<b>TOTALS</b>						

**EMPLOYER CERTIFICATION:** I hereby certify that all personnel cost listed herein are for overtime and/or recalled personnel only. I further certify that all information contained on this form is true and correct to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_

\_\_\_\_\_  
Date

Title

**APPENDIX G, HAZARDOUS MATERIALS  
COST RECOVERY PACKET, MT-DES**

**MEDICAL TREATMENT**

**DIRECTIONS:** Please complete this section for reimbursement of medical treatment costs for response personnel. Receipts for services provided must be attached.

**DEPARTMENT NAME:**

Name	Description of Medical Treatment	Total Cost
<b>TOTALS</b>		

**VEHICLES AND APPARATUS**

**DIRECTIONS:** Please complete this section for reimbursement of vehicles and apparatus used specifically for the response. Indicate if the amount claimed is for rental, leasing or replacement. Receipts must be attached.

**DEPARTMENT NAME:**

Item	Rent Lease or Replace	Qty	Total Hours	Unit Cost or Hourly Rate	Total Cost
<b>TOTALS</b>					

**APPENDIX G, HAZARDOUS MATERIALS  
COST RECOVERY PACKET, MT-DES**

**MATERIALS/SUPPLIES/DECONTAMINATION**

**DIRECTIONS:** Please complete this section for reimbursement of materials, supplies and decon of equipment costs incurred as a result of the incident. Receipts for these costs must be attached.

**DEPARTMENT NAME:**

Item	Qty	Unit Cost	Total Cost
<b>TOTALS</b>			

**MISCELLANEOUS/TECHNICAL SERVICES/LAB COSTS**

**DIRECTIONS:** Please complete this section for reimbursement of miscellaneous costs, technical services and lab costs utilized specifically for the response. Receipts must be attached.

**DEPARTMENT NAME:**

Item or Technical Advisor	Qty	Unit Cost or Hourly Rate	Total Cost
<b>TOTALS</b>			

# APPENDIX G, COST RECOVERY PACKET

## SAMPLE SUMMARY LETTER FOR MULTIPLE AGENCY RESPONSE

(Your Department Letterhead)

(DATE)

Disaster and Emergency Services  
P.O. Box 4789  
Fort Harrison, MT 59636-4789

Re: Invoice for HM Response            STATECOMM #:  
Date of incident:

Please consider this letter an invoice for reimbursement in response to the above referenced hazardous materials incident.

The following agencies incurred costs relating to the incident are as follows:

1.	Bucksnot Fire	\$1,610.00
2.	Toston Maudlau Fire	800.00
3.	Boulder Fire	125.00
4.	Moose Fire	120.00
5.	Bonfire Fire	220.00
6.	ISP	<u>240.00</u>
	Total	\$3115.00

Itemized reports from each agency listed are enclosed with this letter.

\*I hereby certify that all the costs submitted were incurred as a result of response to this incident and that we have not nor will receive payment for these costs from any other source. I certify that the personnel costs are for overtime pay and recalled personnel. These costs would not have been incurred had the incident not occurred.

Sincerely,

(Person submitting cost)

\*Please make sure this paragraph is included in your cover letter. Thanks.

# APPENDIX G, COST RECOVERY PACKET

## SAMPLE SUMMARY LETTER

(Your Department Letterhead)

(DATE)

Disaster and Emergency Services  
P.O. Box 4789  
Fort Harrison, MT 59636-4789

Re: Invoice for HM Response                      STATECOMM #:  
Date of incident:

Please consider this letter an invoice for reimbursement in response to the above referenced hazardous materials incident.

The costs relating to the incident are as follows:

1.	Personnel Overtime Costs	\$1,610.00
2.	Medical Monitoring/Treatment	300.00
3.	Vehicles and Apparatus	80.00
4.	Disposal Material/Supplies	120.00
5.	Decon/Disposal	10.00
6.	Miscellaneous/Technical/Lab Costs	<u>.00</u>
	Total	\$2,120.00

\*I hereby certify that all the costs submitted were incurred as a result of response to this incident and that we have not nor will receive payment for these costs from any other source. I certify that the personnel costs are for overtime pay and recalled personnel. These costs would not have been incurred had the incident not occurred.

Sincerely,

(Person submitting cost)

\*Please make sure this paragraph is included in your cover letter. Thanks.



## **APPENDIX H**

### **LOCAL EMERGENCY PLANNING COMMITTEE CHECKLIST**

#### **BEFORE THE FIRST MEETING**

- Set date, time and neutral place for meeting.**
- Set agenda.**
- Provide public notice of meeting.**
- Invite participants with copy of draft agenda attached.**
- Define scope, goals and objectives of LEPC/TERC.**

#### **ONGOING TASKS**

- Appoint a chairperson and other officers as needed.**
- Record minutes of meetings. Submit copies to participants and DES.**
- Submit a nomination letter of members of LEPC/TERC to DES.**
- Adopt by-laws and provide a copy to DES.**
- Appoint Sub-Committees.**
- Maintain records and references.**
- Publish an annual notice in local newspapers that the emergency operations plan, MSDS, follow-up release notifications, and inventory forms have been submitted.**

#### **PROJECT IDEAS**

- Develop a Hazard Analysis for your jurisdiction.**
- Develop an Emergency Operations Plan (EOP) to be reviewed and updated annually.**
- Develop an exercise program.**
- Develop a training needs analysis.**
- Develop a list of resources.**

## APPENDIX I

### HOMELAND SECURITY GUIDELINES

#### REFERENCES:

1. Overall Homeland Security References/information.

Refer to: [www.dhs.gov](http://www.dhs.gov)

2. Lessons Learned, Information Sharing

Refer to: [www.llis.gov](http://www.llis.gov)

3. Montana's Homeland Security Strategic Plan dated 12/17/03

For all related inquiries contact MT DES, Homeland Security Coordinator  
Sheri Lanz,

E-mail: [sheris@mt.gov](mailto:sheris@mt.gov)

Phone: 406-841-3969

Fax: 406-841-3965

MTDES

PO Box 4789

Fort Harrison, MT 59636-4789

## APPENDIX J

The US Department of Transportation (DOT) Hazardous Materials Emergency Preparedness (HMEP) planning and training grant is used to encourage LEPC/TERC's to meet regularly and create positive agendas.

The HMEP grant provides limited funds to LEPC/TERC for hazardous materials emergency response planning, training and exercising at the local level.

For grant applications and information on HMEP and other grants that may be available contact:

HMEP Grant Project Manager  
Sheri Lanz, MT DES Homeland Security Coordinator  
P. O. Box 4789, Fort Harrison, MT 59636-4789  
Phone: 406-841-3969; Fax: 406-841-3965  
e-mail: [sheris@mt.gov](mailto:sheris@mt.gov)

## **APPENDIX K**

**This particular sample is for Bison County, with Gooseneck, the county seat and Ringlet, an outlying community. The initial section includes contact information.**

### **BISON COUNTY** (last updated 5/02/06)

- George Jones, Gooseneck Fire Chief, LEPC Chair , gjbison@gooseneck.com; 555-2661
- Helen Smith, County DES Coordinator , hsbison@gooseneck.com; 555-2666

### **LEPC Membership Categories** (Revised May 5, 2006)

- Elected Officials (County Commissioners, City Mayors [Gooseneck, Ringlet], Military (Mt. National Guard – Gooseneck)
- DES
- Law Enforcement (County Sheriff, Gooseneck Police, Highway Patrol)
- Fire (Gooseneck, West Gooseneck and Ringlet Fire)
- EMS (Gooseneck Ambulance, Ringlet Ambulance)
- Medical (City Medical Center, Three Dot Clinic, Southern MT Vets Home)
- Public Health (Co. Health Dept. & Co. Sanitarian)
- Utilities (MDA, West-Rivers Telephone, AT&T)
- Public Works (Gooseneck City Utilities)
- (This is a sample list; your jurisdiction may include other representation, such as: transportation, media, pipelines, schools, volunteer organizations, etc.)

**LEPC Meeting Dates:** 1/04/05, 2/1/05, 3/01/05 4/05/05, 5/03/05, 6/07/05, 7/14/05, 8/02/05, 9/07/05, 10/04/05, 11/01/05, 12/06/05, 1/03/06, 2/07/06, 3/07/06, 4/04/06 (These represent the dates for which minutes have been submitted to MTDES)

### **LEPC Committees, Subcommittees, Task Forces**

Exercise Planning Committee

EOP Planning & Preparedness Committee

Mitigation Planning Committee

Training Committee

Citizens Corps Council

(These are examples of possible committees, jurisdictions may have others or none)

**Hosted Training** (purpose, location, date)

Training on Rural Addressing system for 9-1-1, Gooseneck, 10/30/01

HazMat issues & shelter-in-place, Gooseneck, 3/17/03

Terrorism Seminar for law enforcement, Gooseneck, 7/08/04

**Exercises** (type, purpose, location, date)

Table Top Exercise – Continuity of Government, Gooseneck – 10/18/03

Functional exercise with Shell Pipeline, Ringlet - 9/4-5/02

Facilitated local hospital exercise, Gooseneck – 10/22/02

Full Scale Pandemic Flu, Health Department, Gooseneck; 6/24/04