



West Virginia  
State Emergency Response  
Commission

# The West Virginia LEPC Members Handbook

September 1, 2005

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Parts of this book have been extracted from the State of Texas Local Emergency Planning Committee Handbook, additionally this handbook has been compiled from information from handbooks from Alaska, Kansas, Nebraska, Ohio, Missouri, Florida, Wyoming, Maine and Washington states.

## SARA TITLE III (RIGHT-TO-KNOW) PROGRAM

### Introduction

A comprehensive all hazards program is one of the best means for resolving questions of coordination, clarifying roles and responsibilities, promoting community awareness of hazards, and establishing readiness of emergency responders. Currently, US EPA and FEMA are altering the emphasis from hazardous materials to all hazards planning, training and exercising. LEPC activities are gaining importance because of the current world situation and the relationship to WMD, terrorism and facility incidents have on the environment, local government, community, and response personnel.

This guide is approved by the West Virginia State Emergency Response Commission (WV SERC) to provide Local Emergency Planning Committees (LEPCs), emergency managers, and responders information for use in developing comprehensive all hazards mitigation, preparedness, response, and recovery programs.

Comments or questions regarding it's content or the state of West Virginia's all hazards and hazardous materials program should be addressed to the program coordinator, Laverne M. Stout, at 304 558-5380 or [lmuncy@wvoes.state.wv.us](mailto:lmuncy@wvoes.state.wv.us)

### History

The Emergency Planning and Community Right-to-Know Act, (EPCRA), was signed October 17, 1986 as Title III of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499). This act was created in response to the Bophal, India incident in 1986 a release of MIC (Methyl Isocyanate) which killed or injured thousands. Incidents in Institute, West Virginia and elsewhere in the United States, reinforced the potential that a chemical disaster could happen in the United States. In 1986, Congress enacted SARA Title III (Superfund Amendments and Reauthorization Act) a section of EPCRA (Emergency Planning and Community Right to Know Act) requiring the Governor of each state to appoint a State Emergency Response Commission (SERC). Subsequently each SERC was required to appoint Planning Districts; West Virginia enacted §15-5A to mirror federal requirements. Each LEPC was required to submit an emergency response plan to the SERC not later than October 1988. LEPCs are composed of a minimum of 12 members representing the following areas: elected state and local officials, law enforcement, emergency management, fire service, health, local environmental, hospital, ambulance, transportation, broadcast/print media, community group, and owners/operators of facilities subject to EPCRA requirements. EPCRA established requirements for federal, state, local governments, and industry regarding emergency response planning, training, exercising, and community right-to-know information.

### Current Trends

LEPCs, in West Virginia, are encouraging hazard reduction, accident prevention, pollution prevention, shelter- in-place programs for area industry, citizens and vulnerable populations.

The SERC has encouraged LEPCs to take an all-hazards approach to their activities, most incidents (whether they are WMD, Terrorist, Flooding or other incident) have a hazardous materials element in the event. Many LEPCs are now in the process of updating and incorporating Counter-Terrorism and WMD information into their emergency plans and in their planning and exercising process.

## Mission

- \* To collect and maintain information on hazardous or extremely hazardous materials being used in or passing through the LEPC
- \* To analyze associated risks, vulnerabilities, and develop an effective emergency plan
- \* To make information readily available to responders and the general public
- \* To provide a continuing forum for responders and citizens to discuss all hazards issues

## Goals & Objectives

- \* Define the degree of hazardous substances located in and moving through West Virginia
- \* Determine baseline hazmat trained response personnel & resources in West Virginia
- \* Evaluate the effectiveness of emergency response plans with respect to all hazards approach
- \* Promote chemical safety on the job, in the classroom and at home
- \* Determine at risk population and safety measures needed

## Legal Authority & Rules in West Virginia

**West Virginia Code §15-5A-4** defines the makeup of the SERC and outlines SERC responsibilities, it further defines LEPCs and their responsibilities, to include positions and officers.

WV Code provides guidance for the reporting of extremely hazardous and hazardous substances within the state. LEPC responsibilities, SERC responsibilities and responsibilities of covered facilities are also covered. Copies of §15-5A-1 & §55-1-1 have previously been provided to LEPCs.

The following section numbers and headings identify subject items in West Virginia Code §15-5A-1:

- 5A-1 Declaration of Purpose
- 5A-2 Jurisdiction of West Virginia Emergency Response Commission
- 5A-3 Definitions
- 5A-4 State Emergency Response Commission created; composition and organization, qualifications, terms, removal, compensation, meetings
- 5A-5 Powers and duties of the commission
- 5A-6 Powers and duties of the Division of Homeland Security & Emergency Management
- 5A-7 Establishment of emergency planning districts and committees; composition, organization, duties
- 5A-8 Severability

The following section numbers and headings identify subject items in West Virginia Code §55-1-1:

- 1-1 Scope, Authority, Effective Date, Filing Date, Applicability
- 1-2 Definitions
- 1-3 Reporting by covered facilities
- 1-4 Emergency Notification
- 1-5 Requests for Information
- 1-6 Requests for MSDS information

- 1-7 Requests for Hazardous Chemical Inventory Forms
- 1-8 Trade Secrets and Confidential Information
- 1-9 Fees
- 1-10 Grants
- 1-11 Enforcement

*State Emergency Response Commission (SERC)*

General

EPCRA requires the Governor of each State to designate a State Emergency Response Commission (SERC). The SERC is responsible for adopting rules and procedures to implement this federal program statewide. Specific responsibilities include:

1. Creation of planning districts and Local Emergency Planning Committees (LEPCs), general oversight of their membership and functions (Appropriate membership, officers, meeting frequency, meeting minutes)
2. Planning and exercising guidance and assistance to LEPCs
3. Receipt, organization, storage and public access to EHS, inventory, release reporting and planning information
4. Management of filing fees including collection, accounting and disbursement to LEPCs
5. General program guidance and assistance to LEPCs
6. Point of contact for LEPCs, state agencies and interest groups, including County Commissioners, Emergency Management Council, USEPA and US DOT
7. Educate and assist industry with reporting requirements
8. Encourage compliance with all aspects of the program

*Organization of West Virginia SERC*

The West Virginia Legislature created the state emergency response commission in 1986 with HB 2382; West Virginia Code §15-5A-4 states the commission consists of 11 members, 3 of which are appointed by the Governor.

Ex-officio members:

- Director of the Division of Environmental Protection
- Commissioner of the Division of Public Health
- \*Chief of the Office of Air Quality of the Division of Environmental Protection
- Director of the Division of Homeland Security & Emergency Management- **Chairperson**
- \*Superintendent of the Division of Public Safety
- Commissioner of the Division of Highways
- Designee from the Public Service Commission
- Designee from the State Fire Marshal

Appointees:

- Representative of the Chemical Industry
- Representative of a Municipal or Volunteer Fire Department
- Representative of the Public knowledgeable in Emergency Response

The WV SERC meets bi-monthly and the Director of the Division of Homeland Security & Emergency Management (DHSEM) is the de-facto Chairperson. The Commission also appoints a Vice-Chairperson – currently represented by the Fire Marshal’s Office (Fire Marshal Rudy Raynes), and a secretary who is not necessarily a member of the commission. The Commission is currently submitting changes for the 2006 legislative session and will include:

- \* Chief of Office of Air Quality of the Division of Environmental Protection should read Director of Division of Natural Resources- an update has been submitted to change the language in 2006
- \* Superintendent of Public Safety’s title has changed to Superintendent of West Virginia State Police -an update has been submitted the change the language in 2006
- \* During the 2005 Legislative session the name of the WV Office of Emergency Services was changed to the Division of Homeland Security and Emergency Management – not all parts of WV Code were changed with the name change - an update has been submitted to change the remaining language in 2006.

The SERC has one employee, who also works for the DHSEM, additional staff are drawn from employees of the DHSEM when necessary.

#### *Local Emergency Planning Committee (LEPC)*

##### General

The provisions of §15-5A-7 state the LEPC is the local emergency planning body of an emergency planning district as established by the SERC. In West Virginia, a district, is defined as a County. The SERC encourages counties to form joint LEPCs with two or more counties. To date West Virginia has 4 joint LEPCs, Cabell/Wayne, Kanawha/Putnam, Lewis/Upshur and Marshall/Wetzel have formed joint LEPCs in the state.

Members of the LEPC represent various organizations, agencies, departments, facilities and/or groups within the county who would normally respond during an emergency or disaster. Their response will more likely be successful or credible if the people who implement it during disasters, emergencies, or exercises are part of the planning process. Each member must realize that he or she represents their organization and providing accurate feedback from their organization back to the LEPC is invaluable.

The LEPC has many responsibilities, mandates and deadlines. To be successful, the membership should organize to handle these various tasks by utilizing individual efforts, sub-committees, or contracted assistance. All personnel who have accepted membership on the LEPC have an obligation, to the LEPC and to the citizens of their county, and state to become familiar with the various laws, rules, and other documents used in the EPCRA program in West Virginia. In order to contribute to the LEPC and fully represent their group or organization successfully on the LEPC, members must make every effort to attend as many meetings a year as possible.

#### *Organization of the LEPC’s*

*Officers* – Each LEPC at a minimum should consist of a chairperson, vice chairperson and secretary. A treasurer or others are optional based upon the structure of the LEPC by-laws.

*Sub-Committees* – Dividing the work among sub-committees can facilitate planning and data management. Sub-Committees allow members to specialize and help the process move forward quickly because you can work on several areas at one time. The number of sub-committees can be adjusted to fit the size of the planning district (LEPC) and can include but is not limited to:

- \* planning
- \* training & exercising
- \* public awareness
- \* by-laws
- \* membership
- \* finance
- \* EOP & SOP's

Additional committees can be formed as appropriate  
(you may need temporary committees based on specific projects,  
but they do not need to serve as standing committees unless the LEPC dictates)

LEPCs who utilize sub-committees find they are able to conduct a larger volume of work and are able to spread the work out to several groups/individuals. This prevents a core group of members from being responsible for the bulk of LEPC activities, thereby minimizing burn-out. Sub-committees are also a way to utilize the unique talents each member brings to the LEPC.

#### Volunteers and members at large

The LEPC membership is a starting point for potential volunteers. Meeting with active members of each of the 12 categories and making sure they are well informed on EPCRA and the purpose of the LEPC makes recruiting individuals easier. It is easier to get a volunteer from an informed group rather than an uninformed group.

#### Appointment of LEPC Members

Under §15-5A-7 the State Emergency Response Commission appoints members to the Local Emergency Planning Committee for each emergency planning district. \*Representatives shall include:

- Elected State and local officials (a representative of the county commission may fill this position)
- Law Enforcement
- Emergency Management
- Fire Service
- Ambulance Service
- Health
- Local Environmental
- Hospital
- Transportation
- Broadcast/print Media
- Community Group
- Owner/Operator of facility subject to EPCRA

\* Several representative names are currently selected for name changes for the 2006 Legislative Session. Terms of office, election of officers, authority of LEPCs, removal of members, meeting times are covered in individual LEPC By-laws.

## *LEPC Functions*

The two primary roles of the LEPC are:

**Community Right-to-Know** – preparing and implementing the Emergency Planning and Community Right-to-Know Act including emergency response plans, managing submissions from industry and disclosure to citizens on request. This involves handling, filing, tracking reports, and preparing data for release to the public. These efforts increase awareness of hazards in communities, empowering citizens and local government to monitor information on substances stored, manufactured, used or shipped throughout their community and the state. LEPCs play a broad role in the community, they conduct educational programs, exercise, train, and plan to assist the public understand safety, risks, and community rights. LEPCs in West Virginia are encouraged to interact, inform, and assist the public in understanding the Community Right-to-Know Act.

**Emergency Planning** - Enables LEPCs to prepare for hazardous incidents through emergency planning. This planning also provides information and facilitates training for first responders who are called upon to protect the public in the event of a hazardous incident. The LEPC provides information on evacuation routes, shelter-in-place procedures and other information needed to help citizens plan for emergencies.

**WV Code §15-5A-7 states:** The LEPC shall have and may exercise the following powers and authority and shall perform the following duties:

- (1) Establish procedures for receiving and processing requests from the public for information regarding any emergency response plan, material safety data sheets, emergency, first aid and medical treatment procedures, inventory forms, toxic chemical release form, or follow up emergency notice, including Tier II information.
- (2) Designate an official to serve as coordinator for information for processing requests for information from the public.
- (3) Develop and implement a comprehensive emergency response plan in accordance with 42 USC §11003, and review such plan once a year, or more frequently as changed circumstances in the community or at any facility may require: Provided, that such comprehensive emergency response plans may not require a covered facility to revise, modify or otherwise alter any emergency release response or release prevention plan that has been prepared pursuant to any other state or federal statute or regulation including, but not limited to, contingency plans developed under the Resource Conservation and Recovery Act, Spill Prevention and Countermeasure Plans, or Best Management Practices Plan developed under the Clean Water Act.
- (4) Prior to implementation submit a copy of the prepared emergency response plan to the state emergency response commission for review and recommendation;
- (5) Publish annually a notice in local newspapers that the emergency response plan is available for review, as are those material safety data sheets, emergency first aid and medical treatment procedures, inventory forms and follow-up emergency notices which have been submitted to the committee. The notice shall also state that members of the public who wish to review any such plan, sheet, form or follow-up notice may do so at a designated location.



(6) Establish deadlines for responding to information requests from the public and;

(7) Receive, catalogue and organize information required to be submitted to the committee under the provisions of 42 USC §1101, et seq.

*US EPA's survey of LEPCs throughout the US have shown that approximately 30% are active, 20% are compliant, 30% moderately active and 20% inactive (a majority of these are in rural communities). WV LEPCs are in line with these trends.*

### *Meetings & Operations*

The SERC does expect LEPCs to conduct regular meetings (minimum of one per quarter) and to submit minutes of the meeting to the SERC. For an LEPC to be successful, it must meet regularly to work on and complete its duties. Bi-monthly or quarterly meetings seem to work best for most LEPCs, however, additional meetings can only assist the LEPC.

Meetings should follow an organized format, determined by the members and by-laws. Members should decide on the time, date and length of meetings. Meeting announcements should be sent to members in a timely manner (preferably 7-10 days) to ensure timely notification of members.

**Agendas** - meetings are essential and help keep the LEPC focused on the tasks at hand. The Chairperson or Vice-Chairperson (as determined by the by-laws) should remember that all members are volunteers and their time should not be wasted. Each LEPC Officer and member should be fully prepared for the meeting. The meeting should start on time, follow the agenda, curtail non-subject conversations and insure that minutes are taken. Make sure assignments to individuals are summarized and tasks assigned are understood.

**Minutes** - of meetings are required and must be prepared. Minutes should be mailed/mailed/faxed to all members following each meeting and maintained for a minimum of 5 years or in accordance with the individual county requirements. The SERC asks that LEPCs provide copies of their meeting minutes to the SERC for their records.

**Sub-Committees** -can be very useful to the successful operation of the LEPC. Appointment of Sub-Committees permits the LEPC leaders to form small groups which focus on specific tasks. Sub-Committees can be staffed by LEPC members or a combination of members and non-members. Records of meetings, accomplishments and recommendations by the LEPC should be kept. The Chairperson should see that each sub-committee completes their assigned work, and is given guidance, direction, and the materials to do the job.

**Record Maintenance** - The LEPC is responsible for maintaining accurate records and files. The LEPC will receive a considerable volume of mail, much of which is important material. All of this information should be carefully reviewed, acted upon and subsequently filed. Receipt of mail may contain official WV SERC letters, grant packages and various publications. Some of the material will have suspense dates and much of the materials received will require some action by the LEPC. Procedures should be established to insure that materials received are handled in a prompt and timely manner. Citizens should be given the opportunity to review materials, but the LEPC needs to ensure the contents are safeguarded, actions taken if necessary, and finally filed for future reference.

The SERC, as well as other agencies such as DEP, EMS, and State Fire Marshal (SFM), periodically provide the LEPC with copies of reference or training materials. These are expensive and need to be maintained for future reference and use. Some of the materials will be distributed one time only and it will be impossible to obtain additional copies, therefore, safeguards such as a permanent library, with sign-out sheets for accountability should be used

**Public Meetings** - Under the West Virginia “Sunshine Law” §6-9A, all LEPC meetings, and activities are considered “public” and are required to be published in the Secretary of State’s State Register a minimum of 5 days before the event. There are some exceptions noted in §6-9A-4, such as, an executive session to consider the following: acts of war, threatened attack from a foreign power, civil insurrection or riot; certain personnel matters, including some grievance procedures, disciplining, suspension, to consider mental health issues, unwarranted invasion of an individuals privacy, official investigation relating to crime prevention or law enforcement; security, purchase, sale or lease of property etc.

Nothing, in this article, permits a public agency to close a meeting that otherwise would be open, merely because an agency attorney is a participant. For additional information please review §6-9A-4. You can email your notification to the Secretary of State at [jcooper@wvsos.com](mailto:jcooper@wvsos.com) or fax it to 304 558-0900.

**By-Laws** - §15-5A-7 states the local committee shall submit their proposed procedural rules (by-laws) to the state emergency response commission for review and comment no later than the first day of January 1999. Generic by-laws were given to LEPCs in 1997, several LEPCs had previously completed by-laws and have in the intervening years updated their by-laws to resemble the generic by-laws provided. By-laws may contain additional information but must contain at a minimum the following categories:

- Changes to procedures
- Composition of Committee
- Officers, Public Notice of LEPC Activities
- Public Comment & Response, Identification of Covered Facilities
- Guidelines on Receiving & Processing Requests
- General Policy of Availability
- Request/Responding/Withheld Information
- Glossary of Terms
- Samples of News Releases, Advertisements
- Letter to Covered Facility and signature by appropriate authority.

Examples of by-laws can be obtained from the WV SERC by contacting the WV Division of Homeland Security & Emergency Management at 304 558-5380 or [lmuncy@wvoes.state.wv.us](mailto:lmuncy@wvoes.state.wv.us)

It is essential for the LEPC to have space to appropriately file paperwork received, library space, adequate office equipment, and staff to permit them to properly conduct their business. However, in West Virginia most LEPCs are co-located with the local OES office due to restricted funding. Local OES Directors and staff have provided significant assistance to LEPCs with staffing and equipment. It is also beneficial to both as the files, plans, and records are readily available during incidents.

## *Guidelines for Better Meetings*

“Business is business,” this theme is contained in a 101 level course in Business Administration and its meaning holds true whenever a group of people meet to conduct business regardless of its nature.

The LEPC has many tasks it must perform, the members are volunteers, their time is valuable and to be successful, the LEPC must operate in a businesslike manner. The following guidelines are presented for your information and consideration to assist the LEPC in their activities (you are not required to conduct your meetings in the following format – the information however, may be of assistance).

### **\*\*\*\*\* BEFORE THE MEETING \*\*\*\*\***

- Have a specific purpose/objective for each meeting
- Establish an appropriate time frame
- Identify topics and material to be covered
- Gather/prepare any materials/information you may need
- Arrange material to present in a clear and concise manner
- Invite key people, guest speakers/presenters
- Make logistical arrangements - space, seating, audio/video etc
- Take writing materials with you to the meeting

***Preparing an agenda-*** Consider & review your input with regard to agenda items, notify your membership of the meeting and distribute the agenda (early if possible)

### **\*\*\*\*\* AT THE BEGINNING OF THE MEETING \*\*\*\*\***

- Start on time
- Clarify the purpose/objective of the meeting
- Introduce guests or new personnel
- Clarify ground rules, i.e. one topic/speaker at a time, etc.
- Establish time objective

### **\*\*\*\*\* DURING THE MEETING \*\*\*\*\***

- Arrive on time
- Be seated and ready to go at start time
- Make an opening statement, review minutes of last meeting
- Present your information and ideas clearly/concisely
- Focus on one agenda item at a time, keeping the meeting on track
- Maintain control over time and discussions
- Stay on the subject being presented
- Record ideas and action items
- Reach agreement on specified decisions and actions

#### ***Members should:***

- Avoid side conversations, pay attention, and be polite
- Takes your notes, don't rely on the minutes
- Listen
- Participate in discussions and activities

### **\*\*\*\*\* AT THE END OF THE MEETING \*\*\*\*\***

- Review action items and responsibilities (who will do what, when)
- Summarize and set follow-up date(s)

**\*\*\*\*\* AFTER THE MEETING \*\*\*\*\***

Prepare minutes and/or follow-up correspondence if necessary

Clarify and follow-up on action items

Ask yourself, “What went well?” “What could be improved?” Did I represent my constituents?”

*Guidelines for Being a Better Participant*

The LEPC consists of individuals who represent various types of agencies, departments, organizations, groups or occupations within the planning district (County). The members must represent their constituents in all LEPC activities and must provide a channel of information and coordination to the community. The LEPC’s leadership and secretary are responsible for the organization of the LEPC’s meetings, including preparing the agenda, and providing the membership with timely meeting announcements and minutes of the last meeting.

NOTE: The agenda for the next meeting, along with the minutes of the last meeting, should be provided each member of the LEPC (7-10 days) before the meeting. This will give members an opportunity to prepare for the upcoming meeting.

*Funding*

WV Code §55-1-10 provides funding to LEPCs in the form of grants provided from fees collected during the reporting of Tier Two data. Additional funding of LEPCs is not specified in WV Code, however, LEPCs may “receive and accept from any public or private source gifts, grants or contributions of money, services of personnel, and real or personal property for their use.”

It is essential that LEPCs have funding resources available to pay for the various items mandated by Congress and the Legislature to operate and accomplish the many requirements placed on it. The following information and sources of funds are identified for your information.

The WV SERC has set minimum standard LEPCs must meet or exceed to qualify for funds in West Virginia. LEPCs are required to provide documentation on the following items:

1. LEPC Membership – the LEPC must have a current, updated and active LEPC membership list
2. By-Laws - the SERC requires LEPCs to produce by-laws to conduct LEPC activities
3. The LEPC must conduct a minimum of one (1) LEPC meeting per quarter
4. The LEPC must conduct one exercise per calendar year (table top, functional or actual event)
5. Produce an Emergency Response Plan

SERC staff develops and manages the process through which LEPCs may request annual grants for use by their LEPC. The SERC approves funding allocations to LEPCs based on adopted standards. LEPCs are eligible to apply for two types of annual grants; SERC/LEPC Grant and HMEP Grant. This process gives the LEPC the opportunity to prioritize LEPC tasks.

The SERC also encourages LEPCs to:

Practice the plan  
Update plans yearly  
Encompass an all hazard approach to planning  
Produce a commodity flow study and hazard vulnerability analysis and other appropriate projects utilizing HMEP grant funds

The primary source of funding for these grants are Tier Two fees collected from facilities which store hazardous or extremely hazardous substances and the US DOT Hazardous Materials Emergency Planning Grant. The West Virginia Legislature does not provide funds for the EPCRA program in West Virginia and the mandates by Congress. At this time it does not appear they will provide funds to LEPCs in the future. SERC staff will review and approve LEPC grant applications based on standards previously approved by the SERC.

*Additionally, the grant funds are subject to periodic audits by the State. All records should be kept at the local level for a minimum of three (3) years after the final audit or whatever the individual county commission requirements mandate.*

**a. SERC Grant**

The SERC annually distributes the LEPC Grant application package in January. Completed applications from the LEPC and are due NLT 1 July of each year. Grants are typically distributed to the LEPC within two-four weeks of submission. These funds will be “administered by the Committee **only** for purposes of carrying out the powers and duties of the LEPC under WV§15-5A-7. Congress directed the creation of EPCRA; however, the federal government has not provided funds for the program but nevertheless requires states to conduct EPCRA activities. This created a severe lack of funding and a mechanism was needed to provide resources to conduct EPCRA activities on a state by state basis. The West Virginia Legislature passed §15-5A into law providing for the collection of annual fees from various facilities which produce, use or store extremely hazardous substances (EHS) and Hazardous Substances (HS) at or above the TPQ set by US EPA. §55-1-9 & §55-1-10 established guidelines for fees and grant funding to LEPCs. Funds were originally distributed annually based on a formula established by SERC Resolution. (LEPCs received 60% & the SERC received 40%) However, fees collected from facilities have remained stagnant and actually declined in recent years. The SERC also provides matching funds for the Hazardous Materials Emergency Planning Grant thereby relieving LEPCs of the burden of providing matching funds. This created a significant decline in available funds for LEPCs; the WV SERC was required to reduce grants significantly during the 2005 grant year and projects the same reduction for 2006. The available funds for grants at this time are a maximum of \$500 per LEPC and after 1 July, remaining funds will be distributed to LEPCs who received the original \$500 grant.

***The SERC will continue to submit legislation to increase fees. In 2003, 2004 & 2005 the proposed legislation was not adopted. The SERC will again re-introduce the legislation in 2006. It is imperative all LEPCs actively assist in the passage of the fee increase. Fees, in West Virginia, have not increased since the original legislation of 1993 and are in the lowest 10% of fees collected in the country.***

### **b. Hazardous Materials Emergency Preparedness Grant (U.S.DOT/HMEP)**

The U.S. Department of Transportation (DOT) began providing planning and training grants in 1993. The grant is called the Hazardous Materials Emergency Preparedness Grant and is referred to as the HMEP Grant. Fees are collected from hazardous materials transporters by U.S.DOT, and are distributed to the states, tribes and territories according to USDOT formula. The HMEP grant is a 75%-25% “reimbursement grant”. This means the SERC expends the grant funding from Tier II fees collected and is then reimbursed by the US DOT at the end of the grant cycle. Many states require LEPCs to provide the 25% match for these funds however, the SERC feels since LEPCs have limited funding options they will provide the 25% matching funds.

The procedure is as follows: the funds are awarded to DHSEM who acts as the grant manager for the SERC. Each state receives two allocations; planning and training grants. Federal regulations require:

- (1) A minimum of 75% of the funding for “Planning” be provided to the LEPCs to assist in planning activities, such as; plan development, hazards analysis, commodity flow studies, and exercises and other eligible activities. The SERC provides the required matching 25% so LEPCs have no matching fund requirements. Pass through grants for planning to LEPCs for approved projects is 89%. 2% of training funds and 11% of planning funds are kept by the state to administer the program and attend workshops.

Upon completion of a qualifying planning or authorized activity, the LEPC submits a reimbursement request, which is provided in the application package, through DHSEM (Planning) and RESA submits invoices (Training) for review and approval. These agencies forward the approved reimbursement requests to the grant manager for 100% reimbursement of the cost.

DOT guidelines specify that not more than 5% of the grant funds can be spent for purchase of equipment. However, the SERC has not permitted equipment purchases since 2003, due to the increased grant applications and the static amount of grant funds received from US DOT.

Unexpended funds **cannot** be “carried over”. The SERC must be notified as soon as an LEPC determines they will not be utilizing their entire award. Those funds will be re-allocated as soon as possible to previously approved LEPCs for expenditure or the funds must be returned to US DOT.

The planning grants are provided annually and are awarded on a competitive basis between LEPCs. The HMEP sub-committee consolidates, prioritizes, and recommends approval of funding requests to the Commission. The sub-committee reviews the grants in August and awards are announced in September or October, depending on concurrence of the full Commission. The grants begin 1 October yearly, and continue until the following December.

\* LEPC Applications for HMEP Grants are mailed to LEPCs in March, with a deadline of July.

\* The SERC grant sub-committee reviews the applications in August and the Commission reviews the committees recommendations at the September/October meeting.

\* At that time, the Commission determines if they will accept the sub-committee recommendations and votes to approve the grant awards.

\* Information is then submitted to the LEPCs on the start date of the grants, progress report requirements, final project completion information etc.

Planning Grants are allocated based upon criteria determined by the sub-committee:

- 1) Does the LEPC meet all requirements previously determined by the SERC?
- 2) What type of project is proposed?
- 3) How much is the requested grant
- 4) Who will be doing the project & how will it benefit the LEPC & surrounding counties
- 5) Available funds for grants
- 6) Other criteria as determined by the sub-committee

The purpose of the grants is to provide funding to LEPCs to conduct specific types of projects. LEPCs generally have severely limited resources, the grants are provided to assist in activities LEPCs. A list of the types of projects LEPCs have previously completed are as follows:

- Commodity Flow Studies
- Hazard Vulnerability Analysis
- Update of the EOP
- Update of SOP (s)
- Resource Manuals
- Conduct drill/exercises
- Video (s) – Shelter-in-place, hospital decontamination etc
- Educational materials
- Public awareness campaigns
- Hazmat Response Plan
- Develop LEPC web sites
- Brochures, pamphlets etc
- Risk Analysis
- County wide analysis of worst case scenarios
- Test of call down systems in conjunction with exercise/drill
- Reproduce book, manuals, pamphlets for distribution to citizens and agencies
- Technical temporary staff

***Projects are not limited to the above list – this list is provided based on previously approved projects.***

(2) A minimum of 75% of the training grant “benefit” be provided the public sector response personnel. In West Virginia the SERC provides the additional 25% for training matching funds so LEPCs have no costs involved. Pass through grants for training to RESA’s (Regional Educational Service Agency) is 98%. 2% of training funds and 11% of planning funds are kept by the state to administer the program and attend workshops.

Currently all training funds are utilized by RESA’s throughout the state, however if your area has a specific type of training needed please contact the West Virginia Training Officer (304 558-5380) to see if training can be provided.

\* The DHSEM Training Officer administers the training portion of the grant and oversees RESA’s class schedules and spending activities.

## *HMEP Grant Funding Structure*

US DOT provides \$140,570.00 annually to the WV SERC as a pass through grant to LEPCs in West Virginia. \$71,389.00 is available for Training and \$69,181.00 for Planning. With the SERC matching funds of \$35,143.00 required by US DOT, the following is a breakdown of the grant allocations:

\$71,389.00 Training	\$69,181.00 Planning
<u>\$17,847.50</u> – state match	<u>\$17,295.50</u> - state match
\$89,236.50 TOTAL	\$86,476.50 TOTAL

### **c. Other Grants**

The LEPC can obtain or use any number of other grants which are available. The LEPC should be prepared to take full advantage of these grants when they are offered and may actively search for new funding sources on their own.

## *Plans & Reviews*

### General

WV §15-5A-7 -3 requires each planning district to develop a comprehensive chemical emergency response and preparedness plan in accordance with 42 U.S.C. §11003. The following is a brief description that explains the emergency planning process and the LEPC member's responsibility in this process.

**State Emergency Response Commissions Responsibilities §15-5A-5** directs that the SERC shall:

- Review emergency response plans submitted by LEPCs and recommend revisions of the plan necessary to ensure coordination of such plan with the plans of other emergency planning districts and other existing state and local emergency response plans
- Enter into cooperative agreements with other state agencies
- Publish rules establishing rules of practice before the commission
- Publish procedural rules establishing fees
- Establish an emergency planning grant program
- Establish criteria and procedures for reviewing the chemical emergency response and preparedness plans of LEPCs
- Establish rules for the annual exercise of those plans and for providing concurrence or requesting modifications of the plans and the exercise of those plans
- Establish policies and procedures for maintaining information submitted to the SERC and LEPC.



## *LEPC Planning Activities*

LEPCs shall, once each year, submit their comprehensive emergency response plan for review. In accordance with this section, the LEPC shall prepare and submit to the SERC a Chemical Emergency Response and Preparedness Plan for the LEPC §15-5A-7. The Plan shall contain all of the following minimum requirements:

1. Identification of each facility within the district that has an extremely hazardous substance (EHS) present at the facility in an amount that exceeds the threshold planning quantity (TPQ) for the substance.
2. An identification of all facilities within the district that are contributing or subjected to additional risk due to their proximity to facilities identified under paragraph one above. This is accomplished by the LEPC completing a hazards analysis for each EHS site. The analysis will help identify which additional sites are at risk or add to the risk.
3. An identification of routes likely to be used for the transportation of EHS to and from each EHS facility identified under number one above.
4. The methods and procedures to be followed by owners and operators of facilities identified under (1) above and by local emergency response and medical personnel to respond to releases of EHS are required by OSHA 29 CFR 1910.120. LEPCs will should cooperate and coordinate with facilities regarding these methods and procedures.
5. The designation of a community emergency coordinator for the district, identification of the facility emergency coordinator for each facility identified under (1) above, and identification of the heads of emergency response organizations for designated areas or political subdivisions within the district.
6. Identification of procedures for reliable, effective, and timely notification and communications among emergency responders within the district and to the public in the event of a release of an EHS from a facility identified under (1) above.
7. Development of methods for determining the occurrence of a release of an EHS from each facility identified under number one above and for identifying the geographical area or population likely to be affected by such a release.
8. A composite statement of specialized equipment, facilities, personnel, and emergency response organizations available within the district to respond to releases of EHS.
9. Development of evacuation plans including, but not limited to, provisions for a precautionary evacuation and for alternate traffic routes in the event of a release of an EHS from a facility identified under division (A)(1) of this section.
10. A plan for mutual aid to other emergency planning districts and for the allocation of emergency response facilities, equipment, and personnel for responding to releases of EHS.
11. A plan for the development or provision of training programs, seminars, and other forms of educational programs for the personnel of facilities identified, emergency response personnel, political subdivisions within the district, and medical personnel.
12. Development of methods and schedules for exercising the plan.

## *LEPC Plan Authority*

WV Code §15-5A-7-3 & 4 states that the LEPC annually shall submit the plan (or plan updates) to the SERC and that the SERC shall review the Plan to ensure that it complies with SERC requirements.

WV Code §55-1-2-1-2 Identifies the type of facilities which must be included in the District's Plan, i.e., (1) A facility which has an EHS present in an amount equal to or exceeding the threshold planning quantity (TPQ), and (2) a facility which has been designated as an 'Additional Facility' in accordance with WV Code §15-5A-5-d.

WV Code §55-1-3-2 & 42 U.S.C. §11022: Sets forth requirements of a subject facility, as identified in §15-5A-5-d above, to designate a "Facility Emergency Coordinator", to inform the LEPC of any changes occurring at the facility, and to provide any information requested by the LEPC necessary for the development of emergency plans.

§15-5A-7-d-3 & 42 U.S.C. §11003 states the SERC and the LEPCs shall use, at a minimum, the NRT-1 Document (Hazardous Materials Emergency Planning Guide) and subsequently published documents authorized in Section 303(f) of the "Emergency Planning and Community Right-To-Know Act of 1986" as guidance in preparing the Chemical Emergency Response and Preparedness Plans.

§15-5A-6 States the WV SERC has designated the Division of Homeland Security & Emergency Management (WVDHSEM) to conduct initial and annual reviews required under §15-5A-5e. Each plan will have a Table of Contents. The SERC shall provide, through the WVDHSEM, guidance in the development of the plan. The SERC shall let the LEPC know if the SERC concurs and accepts the LEPC plan submitted or if additional information is required following the review of an LEPC's chemical emergency response and preparedness plan. The plans should contain all of the minimum plan requirements (pre-determined by the SERC and in concurrence with federal guidelines) if guidelines are not met or additional information is necessary the SERC will either table the plan or return the plan to the LEPC for additional information. The LEPC will be notified that the plan does not meet the minimum requirements and the SERC does not concur nor accept the plan as submitted. The SERC will make every effort to assist LEPCs in reviewing, modification and altering of their plan to meet the minimum requirements for acceptance.

### Acceptable Plan Formats

The LEPC has the option of how to format its plan:

- a. Stand Alone Plan. A complete plan in itself and addresses all requirements of the law and does not rely on and, is not part of other already established plans such as the County's Emergency Operations Plan (EOP).
- b. Hazardous Materials Annex/Appendix: Uses the EOP as a base document. A Hazardous Materials Annex/Appendix is added to fulfill requirements which are not addressed in the EOP.

Reference Material: There are numerous hazards analysis reference documents published by USEPA, FEMA and DOT and distributed by SERC to all West Virginia LEPCs. These include:

- a.
- b. Technical Guidance for Hazards Analysis. This guide, known as the “Green Book,” was designed to help LEPCs conduct site specific hazards analysis for airborne releases of Extremely Hazardous Substances
- c. Handbook of Chemical Hazard Analysis Procedures. Known as the “Brown Book,” this document, developed by USEPA, FEMA and DOT, expands on NRT-1 and the Technical Guidance for Hazards Analysis by including information for explosive, flammable, reactive and otherwise dangerous chemicals, and transportation hazards. The SERC has provided copies of the

### *NRT-1 Hazardous Materials Emergency Planning Guide*

This document was published by the National Response Team to provide national guidance for the development of state and local districts hazardous materials emergency response and preparedness plans. Chapter 3 of NRT-1 provides an excellent discussion of the tasks of the planning team and identifies review of existing plans, hazards analysis, assessment of preparedness, prevention and response capabilities, and the development of an ongoing program for plan implementation as the major tasks of the LEPC’s planning team. Note the emphasis on the planning team and teamwork by the LEPC members. To be effective and successful, the use of an LEPC planning team is essential.

### *Plan Reviews and Evaluation Process*

The SERC is required to establish criteria and procedures for reviewing the chemical emergency response and preparedness plans. The SERC designated DHSEM to conduct initial and annual plan reviews. DHSEM has one Planner, this planner is responsible for conducting the official review of the plan. The Planner will review the plan utilizing the Ohio Hazardous Materials Plan Development and Evaluation Document and will make a recommendation to the SERC for concurrence or non-concurrence.

If the SERC concurs and accepts the plan based upon the evaluation of the DHSEM planner, the plan has been evaluated to have met all of the minimum requirements and does not require any further actions. If the SERC tables or declines to accept the plan, the SERC will notify the LEPC of areas which do not meet the minimum requirement. It is recommended the LEPC submit a modified plan within a sixty (60) day period after notification of declination. The DHSEM planner will assist the affected LEPC in needed modifications. Informal reviews of the plan may be requested and conducted. These reviews can be requested, at any time, by the LEPC regardless of the status of the plan. There is no limit on the number of requests for informal reviews allowed. If the results of the informal review indicate that the plan has met all thirteen minimum plan requirements the planner may, with the LEPCs concurrence and request, change the evaluation to a formal review and forward a recommendation to SERC for concurrence and acceptance.

### Sample Plan/Annex

DHSEM has examples of County Emergency Operation Plans and Hazardous Materials Appendices. LEPCs that desire to obtain these should contact the DHSEM planner at 304 558-5380 to obtain copies.

## *LEPC Hazards Analysis*

Key to the proper development of your district's hazardous materials plan is the knowledge, understanding and analysis of the various threats to your district and from surrounding districts. Most planning districts will have several areas of concern when considering the threat, for instance: fixed facilities which use produce or store hazardous or extremely hazardous substances; highways, railroads, transmission pipelines; and maybe rivers, harbors, docks and airports.

The LEPC should determine which hazards exist in the district and then evaluate them by completing a hazards analysis for each facility and hazard. Most LEPCs have by now completed their initial analysis and most have developed a workable process and have personnel who understand how to update the analysis. EHS facilities are required to be addressed. Other hazardous substances such as gasoline, natural gas, propane, and other "everyday chemicals" should also be considered.

Facilities that use, produce or store substances must report annually to the SERC (March 1) and must provide copies of their reports to the LEPC and the Fire Department which covers their location(s). The LEPC should, through one of its Sub-Committees, review these reports for changes, omissions, upgrades, etc. and change their hazards analysis and update their plan accordingly. There are at least two computer software packages available which can assist the LEPC with the analysis and management of information.

### *Description of Hazard Analysis*

#### General

In developing a hazardous materials response annex, the LEPC will need to identify facilities which contain extremely hazardous substances and/or identify transportation routes which are likely to be used for the transportation of these substances. A hazards analysis will help the LEPC identify these and other hazards in your community. Planners should try to answer the following questions:

- 1 What is the major hazards in our community
- 1 How can we determine the area or population likely to be affected by a release
- 1 What emergency response resources (personnel and equipment) does our community need
- 1 What kind of training do local responders need
- 1 How can we help prevent chemical accidents

The three basic references used for hazards analysis are:

- 1 Off-site Consequence Analysis Guidance: EPA CEPPPO
- 1 Handbook of Chemical Hazards Analysis Procedures: FEMA/US DOT/EPA, and
- 1 Technical Guidance for Hazards Analysis: FEMA/US DOT/EPA.

The Handbook of Chemical Hazards Analysis Procedures is designated at the Brown Book@ and the Technical Guidance for Hazards Analysis is designated as the Green Book@ because of the color of the cover.

## Purpose & Method

Hazard analysis is a way of identifying the threats that hazardous substances such as ammonia, chlorine, nitrogen tetroxide, hydrofluoric acid, petroleum, or phosphorous pose in the community. Under EPCRA, communities conduct hazards analysis to develop and revise emergency plans. Emergency plans focus on facilities when EXTREMELY HAZARDOUS SUBSTANCES (EHS's) are present in amounts exceeding the threshold planning quantity (TPQ). Emergency plans also address other facilities, transportation routes, or hazardous substances that the LEPC has identified as a worthy focus of planning efforts.

The Green Book identifies three steps to a community level hazards analysis. These steps are:

- 1 Hazards identification: Identifies the location, quantity, storage conditions, and the specific hazards posed by the hazardous chemicals transported, manufactured, stored, processed, and used in the community.
- 1 Vulnerability analysis: locates geographical areas and the people, property, services, and natural areas which may be affected by a release.
- 1 Risk analysis: a judgment made of specific release scenarios based on the likelihood and severity of the release.

The Brown Book describes four steps within the hazards analysis process. The extra step, consequence analysis, is simply the elaboration of the risk-analysis step as mentioned above.

To be successful, hazards analysis MUST be an ongoing process and should be repeated to address changes in the hazards and other circumstances in the community that affect emergency planning and response. Coordination among facilities, local emergency planners, and responders during the review process will ensure a thorough evaluation of the community's hazards and allow planners to focus their efforts on the greatest potential threats to the community.

### A Phased Approach to Hazards Analysis

The LEPC should consider conducting hazard analyses in phases. Such an approach will allow the LEPC to reduce the initial expenditure of valuable resources on analyzing less significant hazards and instead focus their efforts on the most important hazards of the community. There are three phases to this type of phase evaluation, which are:

- 1 Screening phase: Using readily available information and worst-case assumptions, determine which facilities and hazards in the community should be the subject of a more detailed analysis. LEPC's can use the TECHNICAL GUIDANCE FOR HAZARD ANALYSIS to complete this phase rather quickly.
- 1 Planning phase: Refining the initial (worst-case) assumptions and get up-to-date information from the priority facilities identified in the screening phase and begin to develop the local emergency plan.
- 1 Scenario phase: For priority facilities and transportation routes, develop a range of specific release scenarios that could pose the highest risk to the community. These more detailed scenarios can be used to develop site-specific emergency response plans.

## Major Steps in Hazard Analysis

The committee should first determine the hazards which pose a serious threat to the community. After identifying the hazards in a community, the committee should conduct a vulnerability analysis to estimate who and what is at risk from a potential chemical incident. Once the hazards and the potential areas of impact for their release have been identified, the third stage in a hazards analysis, risk analysis, can be conducted. Risk analysis is a judgment made by the LEPC based upon estimates of:

- 1 Likelihood of accidental releases from fixed facilities and in transport, and
- 1 The severity of consequences to people, places, and things located within the vulnerable zone.

Risk analysis need not be an extensive exercise in mathematical analysis, but should rely on the knowledge, experience, and common sense of local planners and responders using data gained from hazards identification and vulnerability analysis.

Once the LEPC has completed evaluating the hazards to the community, the information derived from this study can be used to support other local emergency preparedness and accident prevention efforts. Some of the facilities within the community may be submitting vulnerable zones under the provisions of the "RISK MANAGEMENT PROGRAM (CAA 112r)". LEPC's can use that information to validate their work.

### *Public Education & Awareness*

EPCRA does not require LEPCs to conduct public awareness programs, but it is desirable that LEPCs carry out such programs. The public needs to be aware of the dangers of hazardous substances and the procedures they need to follow in the event of orders for in-place sheltering or evacuation. Special facilities such as nursing homes, schools, hospitals, public buildings, senior citizen housing and others need to be considered also.

If not already in place, the LEPC should develop a program to provide for public education in regards to Hazardous Substances. The program should include provisions for orientation and/or training for private citizens, special facilities, and for the identification and education of special populations such as hearing impaired, blind, and home-bound.

The program could include presentations, audio-visual programs, written notices, pamphlets, and other means to insure the district's population is aware of actions which may be required at any time in the event of a hazardous materials incident. The LEPC is encouraged to sponsor speakers for schools, organizations and clubs and provide written or audio-visual programs, assist the district's response organizations with their public information programs, and coordinate other activities to take advantage of ongoing special events in the district.

Facility personnel could be requested to provide a Public Awareness presentation concerning their facility or their industry in general, plant safety systems, and government's requirements, regulations, and oversight. The SERC's Training Sub-Committee, DHSEM Planner, the State Fire Marshal or DEP can assist the LEPCs with examples of programs offered by other LEPCs.

FEMA has several instructional programs on the subject to include a home study course entitled "A Citizens Orientation," and a four hour course entitled "Hazardous Materials Introduction for Public Officials" (G300) and others.

EPA Region 3 and state agencies may, from time to time, conduct workshops in your area designed to improve hazardous materials reporting; the EPA will even mail invitations to the facilities for these workshops.

### *Community Awareness Projects*

#### General

Federal and state governments and industry can provide LEPCs with a considerable number of documents related to hazardous materials and appropriate community preparedness. Remember, the Federal EPCRA law has not changed much since it was written.

In addition to large quantities of written material about hazardous materials, numerous videos and slide shows have been produced showing the importance of planning for chemical emergencies. These presentations demonstrate successful training and public awareness programs throughout the country. As a general rule, videos and slide shows can be borrowed or copied for presentation to specific audiences. Many LEPCs and State and Federal agencies have produced their own public awareness videos and will give copies of these tapes to other LEPCs for the asking.

#### Ideas for Outreach

The following are outreach ideas arranged by potential cost to the LEPC.

##### 1 EXPENSIVE

- 1 Newspaper advertisements (other than classified section)
- 1 Slide shows
- 1 Video programs
- 1 Brochures- multi-page, high quality paper, in color
- 1 Public service announcements (PSAs) professionally written and taped
- 1 Posters
- 1 Telephone book insert
- 1 Billboard messages (or on structures such as oil storage tanks)
- 1 School/day care educational programs (team effort by teachers & outside trainers)(e.g., 'Wally Wise' shelter-in-place program & 'Kids CAER' educational program)

##### 1 LOW COST

- 1 Pamphlets - two sides, inexpensive paper, in black & white
- 1 Classified newspaper advertisements
- 1 Fact sheets
- 1 Utility bill inserts
- 1 Supermarket bag inserts
- 1 Bumper stickers
- 1 Peel-off stickers
- 1 Brochures
- 1 Gas pump "toppers" (announcement displayed on the pumps)

1 FREE

- 1 Newspaper press releases, articles and special features
- 1 Newsletter articles in publications of other organizations
- 1 School poster contest
- 1 Photo display (using donated photos)
- 1 PSAs on radio or TV (other than by professional production co.)
- 1 Speeches to other community organizations
- 1 Radio, TV interviews, talk programs, community bulletin boards
- 1 Slide shows, video tapes or films that are borrowed
- 1 Store window displays
- 1 Anything borrowed, donated, or distributed free

*Exercises & Training*

General

§55-1-10-3-1-3 states that “conduct at least one hazardous materials emergency response exercise during the preceding grant period at least one hazardous material emergency response exercise (tabletop) each grant period”.

*Legal Requirements for Annual Exercise of the Plan*

In accordance with §55-1-10-3-1-3, each LEPC **shall** conduct an exercise of its plan at least annually (an actual event may satisfy this requirement). The LEPC should notify the SERC at least thirty days before each exercise. The DHSEM Training Officer shall review each exercise and shall either concur with the conduct of the exercise or direct the LEPC to make modifications in the exercise of the plan. If the LEPC is submitting an actual event to satisfy the requirement of an exercise, they must contact the DHSEM Training Officer for further details.

*Training Standards*

The LEPC should assist the leadership of the various response and support organizations, within the District, to meet training standards prescribed for their personnel. Ensure that these “employers” are aware of training requirements and standards, and they should maintain appropriate training records for their personnel. Assist these organizations by obtaining training funds for their use by applying for various federal, state and local grants. The LEPC role should include the following: Establish liaison, through the appropriate LEPC members, with the various agencies, departments, organizations and other groups (amateur radio, community groups, and others) within the district to determine their training interests, to discuss training requirements, and determine needs and goals for the groups.

The LEPC Training and Education Sub-Committee should keep the LEPC’s membership advised of their activities and findings. Regularly discuss training needed, planned courses, and requests from the groups. The LEPC could create and make available a consolidated training schedule of the district on a quarterly or biannual basis. They may be able to assist agencies with training records for the individuals in an agency.

Assist all emergency response organizations to obtain training information through the County Fire Association(s), DHSM office, the State Emergency Response Commission, and other State, Federal and private sources. The LEPC might decide to utilize its own funds to purchase



training materials, aids, and/or equipment for various organizations, agencies, departments or groups.

Identify training programs available to support these requirements, including training to be provided by the local instructors, state and federal agencies, and the private sector. Provide training and/or orientation for public officials, first response type organizations, churches, schools, service organizations and others. Provide a schedule for training activities for the current year and at least a rough outline of plans and goals for the following year. Provide funding support for training through the use of LEPC training funds and by obtaining additional funds from grants, private or industrial sources. Provide a reference library containing publications, audio-visual material, and other items for training use. It should be at a location available during normal business hours. A current listing of reference and training documents available should be provided to the various emergency response organizations, agencies and departments.

#### *LEPC Exercise Requirements*

As noted, §55-1-10-3-1-3 requires that each LEPC must conduct an exercise of the plan at least annually. The LEPC must decide what objectives to test, select the type of exercise, the basic scenario, the participants and when to conduct the exercise. The LEPC should appoint an exercise design team or sub-committee to actually develop the exercise, including the scenario, messages, incident site, and control measures. The team or committee should consist of individuals experienced with the functions of the organizations, agencies, and facilities involved in the exercise. One member should be designated as the team leader or chairperson and be responsible for submitting appropriate progress reports to the LEPC.

The committee or team should follow the guidance and information in accordance with the duties and responsibilities determined by the WVDHSEM exercise officer. The team/committee may want to meet initially with the designated DHSEM Planning and Training Officer to seek guidance and to ensure that the exercise directives and procedures are understood. The LEPC must provide the SERC notice of the exercise (thru DHSEM). Lastly, the LEPC is responsible for providing sufficient evaluators for the exercise. Utilize the training and experience of all representatives of the LEPC and of others in the community in the planning of the exercise. The LEPC should start planning many months prior to the expected date of the exercise to determine the type, scale and objectives of the exercise. The LEPC should provide guidance on what type of exercise to conduct. The leader or chairperson should provide the LEPC with periodic briefings and identify any needs or requirements they need to conduct an effective exercise. Insure that all participating departments, agencies and organizations are aware of the exercise, and if they wish to participate, provide general information on the exercise, and know what will be expected of them during the exercise.

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

#### Scheduling of Training

The LEPC should develop, maintain, and distribute a schedule of all Sub-Committee meetings and training sessions hosted or conducted by the LEPC or others. (All training which would be of interest to LEPC members, or other individuals, groups, departments, organizations, or agencies affected by hazardous materials matters should be included). The LEPC should also request that other departments, organizations, and agencies within the district provide them with copies of their training schedules. This procedure would keep the LEPC informed of on-going training programs within the county and would in turn help the LEPC recognize how the organizations are training and who may need attention and/or assistance from the LEPC.

### 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 individual responders health and welfare but for the communities as well. All emergency responders must be properly trained and equipped if they are to successfully handle incidents. The LEPC has a responsibility to coordinate, support, and assist the various agencies, departments, and organizations with their training programs.

\*Additional information on conducting exercises and training activities are currently being developed and will be distributed once completed.

## TIER II INFORMATION

### General

There are fixed facilities in every County in West Virginia which use, produce, or store hazardous substances. The LEPC needs to be aware of all the facilities in the district, especially the ones handling Extremely Hazardous Substances (EHS). Facilities may be privately or government owned, such as water treatment plants and all are subject to at least some provisions of the law.

A facility must notify the SERC and LEPC if it stores one or more of 355 specifically listed Extremely Hazardous Substances (EHSs, sometimes called the “SARA Chemicals”). This notice is required when the chemical(s) are processed, used or stored in excess of the chemical specific threshold quantity (TQ). Threshold planning quantities (TPQ) range from 1 to 500 pounds for EHS and 10,000 pounds or greater for Hazardous substances. Facilities that may be exempt from inventory reporting due to OSHA exemptions are **not** exempt from emergency planning. It provides a 24 hour per day means for the community and responders to contact appropriate representatives of EHS facilities for preplanning or emergencies.

B. Spill/Release Required Notices - (WV Code §55-2-1 & §55-1-4) A facility must immediately in the event upon discovery of the spill/release, notify verbally DHSEM, who will then based upon the type and scope of the spill route them to appropriate additional agencies. A written, follow-up report of this spill or release must be prepared and provided to the SERC and LEPC *not later than thirty days* after the spill/release. Each substance has a chemical specific reportable quantity or “RQ” that triggers reporting. These values can be found in the current “List of Lists” or on the internet at [www.epa.gov](http://www.epa.gov). RQs range from 1 to 10,000 pounds. “Facilities” include trucks and tankers; “oil” includes gasoline. Oil is reportable at 25 gallons or *any* quantity entering waters of the State. Spills **must** be reported upon discovery to the SERC at: 304 558-5380 and the County’s Emergency Services Director. There are no exceptions to spill reporting.

C. Chemical Inventory Reporting (WV Code §55-1-7). A facility processing, using or storing the Threshold Quantity (TQ), or 500 pounds whatever is less, of an extremely hazardous substance (EHS), or 10,000 pounds of a hazardous chemical, as classified by the OSHA hazard communication standard, must notify of the presence of the chemical(s) and annually report the quantities and conditions of storage. Oil, gasoline and caustics are some examples of hazardous materials subject to the 10,000 pound “trigger”. In West Virginia, there is a fee associated with annual inventory reports. The **reports** are due March 1 and **fees** are due March 31 for the prior calendar year, however, the WV SERC requires both the form and fees to be submitted together.

D. Toxic Release Inventory (TRI) Reporting (Section 313, WV Code §55-1-7). Historically, *disposal* of a toxic chemical was excluded from the definitions of manufacture, process and otherwise use. For the 1998 reporting year, the definition of *otherwise use* is expanded to include

use of a toxic chemical as a waste management activity. (The definition is also used and subject to the 10,000 threshold. Contact West Virginia Division of Homeland Security & Emergency Management for more information (304 558-5380). The expanded \*Standard Industrial Classification Codes (SIC) are as follows: SIC Code 10 Mining (except 1011 - iron, 1801 - metal mining services, and 1094 - uranium/radon/vanadium). SIC Code 12 Coal/Lignite mining (except 1241 - coal mining services).

SIC Code 4911 Electric Services, 4931 - electric and other services combined, 4939 - combined utilities NEC - (limited to facilities that combust coal and/or oil for purpose of generating power for distribution in commerce. SIC Code 4953 Refuse Systems (limited to facilities under RCRA Subtitle C). SIC Code 5169 Chemical and Allied Products NEC, 5171 - Petroleum bulk stations/terminals. SIC Code 7389 Business Services NEC limited to facilities primarily engaged in solvent recovery services on a contract or fee basis.

\*Note: The Standard Industrial Classification Code system has been changed to the NAICS – North American Industrial Classification System.

### **EPCPA Reports**

There are four reporting provisions under Emergency Planning and Community Right-to-Know Act (EPCRA) and facilities may be subject to any or all of these:

- 1 - Extremely Hazardous Substances Notification.
- 2 - Release Notification.
- 3 - Inventory/Annual Reporting
- 4 - Toxic Inventory (313/Form R)

NOTE: While LEPCs can and do become involved in all four types of reports, they are only responsible for the first three.

### *Community Right-to-Know Information*

The law requires (Section 324) that EPCRA provide for public access to information gathered under the law. The section requires all lists of MSDS chemicals, hazardous chemical inventory forms, toxic release inventories (TRIs), follow up spill notices, and the emergency response plan be made available to the public during normal working hours. This applies to the LEPCs as well as the WV SERC. The LEPC must publish a notice annually to inform the public of the availability and location of the information required by §15-5A-7c5. The following information is an overview of EPCRA and its requirements.

Section 301 - Establishes State Emergency Response Commissions and Local Emergency Planning Committees

Section 302 - Substances and facilities covered & notification: Owner or operator of a facility subject to these requirements shall notify the State Emergency Response Commission the facility is subject to the requirements of this Title. Within 60 days of a substance becoming present at the facility, the owner or operator of the facility shall notify the SERC and LEPC

- Section 303 - Comprehensive Emergency Response Plans: each LEPC must complete a plan not later than 1988 including - Identification of facilities; methods and procedures followed by Owners or operators and local emergency and medical personnel in response to a release; Designation of a community emergency coordinator; Procedures providing reliable, effective and timely notification a release has occurred; description of emergency equipment and facilities; evacuation plans; training programs; methods and schedules for exercises; facilities are responsible for providing information; review of plans by the SERC; and other information deemed appropriate
- Section 304 - Emergency Notification: Immediately after the release of a substance covered by this section, the facility must notify the LEPC designated emergency reporting number and the WV State Emergency Response Commission. This notification is in addition to reporting requirements under other statutes. As soon as practicable after a release requiring notification, facilities shall provide a written follow-up notice
- Section 306 - Emergency Training and Review of Emergency Systems: Authorization to provide training and education programs for Federal, State, and local personnel in hazard mitigation; review of emergency systems for monitoring, detecting and preventing releases of extremely hazardous substances. Compile reports on status of technological capabilities, public emergency alert devices or systems, technical and economic feasibility of establishing, maintaining, and operating perimeter alert systems, make recommendations on improving devices/systems or new and improved technologies
- Section 311 - Material Safety Data Sheets (MSDS): facilities required to comply with OSHA regulations must have available an MSDS and shall submit the MSDS or a list of chemicals to the LEPC, SERC and fire department with jurisdiction. Lists must include - name of substance/common name, hazardous components, physical and health hazards.
- NOTE: West Virginia was recently informed by US EPA they will permit Tier II forms to serve as 311 notification by facilities for compliance of Section 311.**
- Section 312 - Emergency and Hazardous Chemical Inventory Forms: owner/operator required to submit MSDS must submit Tier II information on the appropriate forms to the LEPC, SERC and fire department with jurisdiction. Information is due annually by March 1 and upon the request of the local committees, facilities shall allow inspection by fire departments with jurisdiction
- Section 313 - Toxic Inventory Release Forms : Facilities with 10 or more employees subject to these requirements shall submit Form R annually by July 1 to EPA and to the WV SERC for each toxic chemical manufactured, processed or otherwise used in excess of the quantity established by US EPA
- Section 321 - Relationship to Other Law: nothing in this Title shall preempt any State or Local Law
- Section 322 - Trade Secret Information: Information may be withheld if the specific chemical identity is likely to cause substantial harm to the competitive position and the substance is not readily discoverable through reverse engineering.
- Section 323 - Provision of Information to Health Professionals, Doctors and Nurses: Facilities subject to Sections 311, 312, 313 must provide specific chemical identity, upon written request from a health professional
- Section 324 - Public Availability of Plans, Data Sheets, Forms, and Follow-up notices: LEPC's shall annually publish a notice in local newspapers that the emergency response plan, MSDS

and inventory forms have been submitted and are available for viewing. Facilities may request the location of a specific chemical be withheld from disclosure

Section 325 - Civil penalties for emergency planning; civil, administrative and criminal penalties for emergency notification; civil and administrative penalties for reporting requirements; civil, administrative and criminal penalties with respect to trade secrets; special enforcement provision for information required by health professionals

Section 327 - Exemptions: Except as provide in Section 304 this Title does not apply to transportation

### Reporting Provisions

#### *Extremely Hazardous Substance Notification.*

Extremely Hazardous Substances (EHS) are chemicals that are immediately dangerous to life and health, even at relatively low concentrations and short exposures. Such conditions are likely to exist following an accidental release of EHS chemicals into the environment. There are 355 EHS's listed in EPCRA (Sep 96). A Threshold Planning Quantity (TPQ) is listed for each Extremely Hazardous Substance. The quantities range from 1 to 500 pounds.

An EHS must be present in a quantity exceeding the TPQ before it must be reported. The facility reporting must also report the highest quantity on hand during any one time of the reporting period (year), this is important a hazards analysis is based on the worst case scenario. If a mixture includes more than 1 percent of an EHS by weight, or 0.1 percent if the EHS is carcinogenic, then the total amount of EHS must be calculated. If this quantity is in excess of the TPQ, it must be reported. Reporting consists of identifying the chemical(s), providing the storage location, a point of contact (Facility Emergency Coordinator), and 24 hour telephone numbers for planning and emergency response. Reporting is required within 60 days of acquiring TPQ of any EHS. Reports should be sent to the local Fire Department, LEPC and the SERC. Facilities can use SERC prepared identification and inventory forms or otherwise provide similar information.

### Release or Spill Reporting

In West Virginia, the release, spill, or abandonment of any of the 355 EHS's noted above, any of the listed CERCLA (Superfund) hazardous substances, or oil, must be reported if two conditions are met. First, the quantity must be at or above the substance's specific Reportable Quantity (RQ). Second, the released material must migrate or travel from the site. Examples: A "RQ" spill from a tank truck onto a street is a release, or any oil spillage which results in a sheen on the water is a release. Notification for "Reportable" spills must be made to the SERC, the LEPC Emergency Coordinator and the local Fire Department. Initial notification is required within 30 minutes of discovery. A detailed written summary report is required to the SERC and the LEPC within 30 days. The law provides flexibility in the LEPC's level of involvement with release reporting. All LEPCs should designate an Emergency Coordinator to receive release reports and to coordinate response actions. Some LEPCs will have extensive response and enforcement programs, while others may largely defer to the SERC.

### Inventory/Annual Reporting

Initial chemical reporting and the annual reporting of the quantity and conditions of storage is required if: (1) the facility is subject to the OSHA Hazard Communication Standard, (2) the facility stores an EHS or hazardous chemicals, and (3) the chemicals are stored in excess of the

TPQ or TQ. The TQ for an EHS is chemical specific, being the lower of the TPQ or 500 pounds (The range for EHS reporting is 1 to 500 pounds). The TQ for any other hazardous chemical is 10,000 pounds. West Virginia utilizes the EPA Tier Two Emergency and Hazardous Chemical Inventory Form.

### LEPC Actions Upon Receipt of Facility Reports

After years of receiving, using, and maintaining facility annual reports most LEPCs have developed a standard procedure, including timely processing (during April and May) of the reports which should include the following actions:

Record receipt of all facility reports.

Check against present listing(s) to insure all reports are received.

Changes. Check reports against last years reports to ascertain changes in chemicals (types and amounts), locations, new diagrams, or map.

Acknowledge receipt of the report to the facility by letter. Question any unclear changes or additions at this time. (optional)

Hazardous Analysis - Re-compute the hazards analysis when changes of chemicals, storage, or volumes dictate. This may change the information on the facility in the hazmat plan.

Confirm that reports are accurately completed.

Update CAMEO. Review facility annual inventory reports and update information in the program as needed.

### Public Access to Information

As stated in §15-5A-7-d5 any person who seeks to review or obtain copies of information submitted to the LEPC **shall** submit a written application to the Information Coordinator of the LEPC. A separate request shall be submitted for each facility (site specific) for which information is being requested, and shall specify both the facility for which the information is being requested and the particular type of documents being requested.

The Information Coordinator shall provide the applicant access to, or copies of, the information requested, or shall perform the requested computer search and provide the applicant with the information obtained in the search, subject to the restrictions submitted as a trade secret or confidential location. An applicant shall be informed of the cost of copying, mailing, or conducting a computer search of information on file with the LEPC before such a search or copies or made.

### Exemptions

Various exemptions under the Freedom of Information Act may apply to information the LEPC maintains. LEPCs must review information requests individually and determine if the information requested is sensitive or classified. WV Code 29B-1-4 will list all exemptions to FOIA, however generally the following portions of the code may apply for LEPC data but is not limited to the following:

The following categories of information are specifically exempt from disclosure under the provisions of this article:

(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

(5) Information specifically exempted from disclosure by statute;

(9) Records assembled, prepared or maintained to prevent, mitigate or respond to terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the public health;

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases, and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of law enforcement or emergency response personnel;

(14) Security or disaster recovery plans, risk assessments, tests, or the results of those tests;

#### *LEPC Compliance and Enforcement Program*

§15-5A-7 states that the LEPC will have a compliance and enforcement program and that this program will consist of monitoring regulated facilities within the district, and conducting compliance and enforcement activities to ensure the facilities have submitted the information required. The SERC considers the following activities as evidence that a LEPC is meeting its compliance program responsibilities:

1. Meeting with Companies.

Individual or group meetings with one company or a group of potential reporters; water/wastewater treatment operators, funeral homes, gas stations, or any group of known or possible reporting concern.

2. Inspecting Records.

Records should be kept for LEPC and all government activities. Reports, hand written or follow-up letters concerning visits to see what is in the shop or warehouse serve this purpose.

3. Letters to Industry.

The LEPC, a Sub-Committee, volunteer or employee can write letters to a facility or a category of reporters. "Generic" letters might be used and copied to associations.

4. Outreach Newsletter.

A fact sheet or newsletter covering one or many types of reporters might be developed (EHS Notice, spill reporting, general industry, oil and gas).

5. Newspaper Reminder Article.

(For general and neighborhood news, cable, and TV) These can be informative to the public and the potential reporters. The intent of the law, items of interest, i.e. anniversary of Bhopal, enactment date of SARA Title III, safety week, etc., might make these noteworthy.

6. Enforcement Referrals.



To the County Prosecutor or SERC — these are some of the more extreme examples. While hopefully infrequent, they may sometimes become necessary. Feel free to contact another experienced LEPC or the SERC (Remember if you have a problem, someone else has had it too).

#### 7. Copies of Settlements.

Some LEPCs have already reached settlements with one or more parties over inventory or release reporting violations. A settlement might include LEPC support or assistance of or in addition to cash.

### *Facility Compliance*

There are probably facilities in your community that have not yet supplied the LEPC with the required facility reporting information. As an LEPC you have many options for promoting compliance.

What is the role of the LEPC in obtaining compliance? This question can only be answered by the LEPC itself. EPCRA provides enforcement mechanisms, but the degree by which you choose to pursue full compliance through law enforcement will depend on your situation. As you implement your program you will find some facilities have not complied with the law. The reasons will likely be that either the facility was unaware of the law or hoped it would not be discovered. It may be partly the fault of the LEPC that all facilities are not in compliance. It may also be that some facilities simply do not wish to cooperate. As LEPCs, you may have to take legal action to overcome the lack of cooperation from some facilities.

What is the role of the SERC? Under SARA Title III, the SERC is the focal point for emergency planning at the state level. You should look upon the SERC as a support resource. The West Virginia State Emergency Response Commission's activities are coordinated and conducted through the West Virginia Division of Homeland Security & Emergency Management.

Why does facility noncompliance matter? Facility compliance with reporting requirements are central to what EPCRA is all about. Since the enactment of SARA Title III, in 1986, West Virginia LEPCs have spent considerable time and energy assessing hazards in their communities. To a great degree planning has enhanced the safety of emergency responders and citizens of the community. Many facilities still remain unnecessary risks to first responders and to the community by not providing the required information on substance the use and store. The quality of your plan may be compromised by missing information. The safety of your local firefighters may be in jeopardy because a facility has not complied. A facility that refuses to cooperate or fails to report, denies you and the citizens in your community your legal right to have that information.

How can compliance be achieved? Encouraging compliance can include many types of activities. LEPCs can work with local organizations, such as chambers of commerce, to gain compliance from small businesses and large companies. Site visits and community meetings may also be helpful. State government is also working to educate facility's subject to Title III by providing information to potential facilities and associations. Knowledge of your authority under the law will help you in your efforts to gain the cooperation you need.

### *Outreach*

The process of improving facility compliance may involve an outreach program to inform facilities of requirements and identify facilities required to report.

Compliance depends, in part, on the education of facility owners about EPCRA, its reporting requirements, and how the information collected can benefit the community. Educating the local news media, fire departments, chamber of commerce, local service organizations, and other business groups will spread the word about EPCRA. Some LEPCs have conducted extensive letter writing campaigns while others have visited facilities and spoken directly to owners about reporting requirements. Once owners learn their reporting obligations, most will provide the necessary information quickly and accurately.

Sources of information to find non-compliance are water permits and air permits. Working with local fire departments, will also help identify facilities that store large quantities of chemicals.

When you identify a facility that is out of compliance, what are your options? Direct contact with the facility owner or operator may be the easiest and most effective way to persuade the facility to comply. If the facility complies and the LEPC receives the information it needs, no further action may be necessary. However, if the LEPC is unsatisfied with the results of its efforts or the facility refuses to comply, the LEPC may want to take further action.

### *Enforcement*

What tools does the law provide to help the LEPC obtain information from a facility? Two provisions in SARA Title III authorize the LEPC to obtain information from facilities. If the LEPC needs additional information from a facility, the authority of SARA Title III, Section 303(d) (3) may be used. Section 303(d) (3) requires facilities to provide information the LEPC deems necessary for developing and implementing its emergency response plan. You may use the authority of this section to obtain a variety of information about the identity and location of extremely hazardous substances, existence of facility emergency plans, and additional information needed to develop the LEPC plan.

Section 303(d) (3) is an enforceable provision. An LEPC should document the information request in a letter to the company. Send the request letter to the owner or operator of the facility. Be sure to cite the authority the LEPC has to request information (Section 303(d) (3) of Title III). Be as specific as possible when requesting information. Allow the facility reasonable time to reply and inform the owner or operator that failure to comply with the request is a violation of the law and could result in a federal penalty. LEPCs should consider the use of certified mail for such requests.

Many facilities required to report under the planning provisions are also covered by SARA Title III, Section 312. Under Section 312 facilities must report their inventories of hazardous substances to the SERC, LEPC, and fire departments annually. Section 312 also authorizes the SERC, LEPC, or a fire department to request information from a facility.

If a company has filed a report under Section 312, SARA Title III authorizes local fire departments to inspect the facility to determine the specific location of hazardous substances. Try to give the owner or operator advance notice in planning inspections. Contact your SERC if you encounter problems gaining access to the facility.

Section 312(e) can be a powerful tool to obtain information from facilities that have not been cooperating with the LEPC. This section of the law is an enforceable provisions the same as

Section 303(d) (3). If the owner or operator fails to provide the facility's information, he or she may be liable for a penalty of up to \$25,000 per violation per day.

As with other requests made of a facility, the LEPC, SERC, or fire departments should formally request the information in a letter, cite the proper authorities, give ample time for the facility to reply, and cite the potential penalty for failure to comply. Use of certified mail may again be appropriate.

The enforcement tools may never be needed if a facility cooperates. However, they are available to the SERC, LEPCs, and fire departments should a specific facility be unwilling to provide necessary information.

What if the facility fails to comply with your information request? If your attempt to obtain information is disregarded, federal laws provide for enforcement actions. The law permits civil penalties of up to \$25,000 per day for most violations and up to \$75,000 per day for repeat violators. An action against a facility can be initiated by filing suit in Federal District Court or by referring the facility to EPA Enforcement Section.

Annual Compliance and Enforcement Report: All LEPCs should send to the SERC an annual report on their compliance and enforcement activities. It should include:

1. Summary of compliance and enforcement activities.
2. Facilities failing to report.

LEPCs must check their district to insure that all facilities that should send a report are doing so annually. The LEPC must notify any facility failing to report, direct them to report, supply them with appropriate reporting booklets (SERC provides extras to LEPCs) and insure they report. If they do not, the LEPC should notify the SERC.

## ACRONYMS AND GLOSSARY OF TERMS

**ALL HAZARDS** – any natural or man-made disaster or emergency which may threaten life, property or environment (including extreme weather conditions, fires, earthquakes, oil or hazardous substance spills, floods, tsunamis, wind-driven water, etc).

**APPLICABLE FACILITY** – A facility with a substance that has been designed by the SERC or the Governor or US EPA (per 42 U.S.C. 1101—11005)

**CAMEO**- Computer Aided Management of Emergency Operations. A software program that helps emergency managers and responders plan for and respond to chemical accidents, and manage information now available under EPCRA about the presence of chemicals in the community.

**CERCLA** – Comprehensive Environmental Response, Compensation and Liability Act

**CHEMICAL** Means any element, chemical compound or mixture of elements and/or compounds.

**COMMISSION** – West Virginia State Emergency Response Commission

**DHSEM** – West Virginia state agency formerly known as Office of Emergency Services now known as Division of Homeland Security & Emergency Management

**DISASTER** – The occurrence of imminent threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or man-made cause including:

- a) fire, flood, earthquake, landslide, mud slide, avalanche, wind-driven water, weather condition, tsunami, volcanic activity, epidemic, air contamination, blight, infestation, explosion, riot, drought, or shortage of food, water, fuel or clothing;
- b) the release of oil or a hazardous substance, if the release requires prompt action to avert environmental danger or damage; and
- c) equipment failure, if the failure is not a predictable frequent or recurring event or preventable by adequate equipment maintenance or operation;
- d) terrorism, intentional infliction of damage, death, destruction of property, infrastructure, disruption of normal activity with intent to destroy or damage

**EHS** –Extremely Hazardous Substance- means a substance listed by USEPA in the “Title III List of Lists”

**EMERGENCY PLANNING DISTRICT** Means an emergency planning district or joint emergency planning district designated under §15-5A

EPA – US Environmental Protection Agency

EOP- Emergency Operations Plan. The principal emergency plan of a facility, community, county or state developed by emergency planners in conjunction with emergency responders, agencies, departments and organizations. The planners will assemble facts on capabilities, limitations, resources, responsibilities, mutual aid requirements and procedures into an emergency operations plan for their jurisdiction.

EPCRA -Emergency Planning and Community Right-To-Know Act of 1986- 42 U.S.C.A. 11001 to 11050 and regulations adopted thereunder. The West Virginia Legislature passed HB 2382, the West Virginia version of EPCRA, 1989. This law, §15-5A of the West Virginia Revised Code provides for the implementation of EPCRA in the State of West Virginia.

**FACILITY** - Means all buildings, equipment, structures, and other stationary items which are located on a single site or contiguous or adjacent sites and which are owned or operated by the same person (or by person which controls, is controlled by, or under common control with). For purpose of chemical release notification, the term does include motor vehicles, rolling stock, and aircraft.

**FACILITY EMERGENCY COORDINATOR** - are designated facility representative who will participate in the local emergency planning committee

FEMA- Federal Emergency Management Agency - The federal agency responsible for emergency planning and response. Coordinates federal agencies response to emergency situations, communicates with the affected states and/or territories to ascertain needs, receives and validates requests for Presidential Emergency Declarations, handles emergency federal funding requests and provides on site assistance to State OES Directors through the end of the emergency as needed.

HC- Hazardous Chemical are has the meanings given to that term in 29 C.F.R. 1910-120(c).

HS -Hazardous Substances is a substance listed by USEPA in paragraph (A) of Rule 3750-20-50. an element or compound which, when it enters into the atmosphere or in or upon the water or surface or subsurface land of the state, presentation imminent and substantial danger to the public health or welfare, including but not limited to fish, animals, vegetation, or any part of the natural habitat in which they are found; oil or a substance defined as a hazardous substance under 42 U.S.C. 9601 (14)

**INCIDENT COMMAND SYSTEM – ICS** - (per FEMA) The combination of facilities, equipment, personnel, procedures and communications operating within a common organizational structure with responsibility for management of assigned resources to effectively accomplish stated objective at the scene of an incident.

LEPC- Local Emergency Planning Committee - A county level planning committee responsible for the development and distribution of the chemical emergency preparedness and response plan, for conducting annual exercises to validate and test the plan, to provide training and assist

emergency responders, other agencies and organizations with their training programs, for development of a public education program, and to develop and implement a compliance and enforcement program for the district.

MSDS – Material Safety Data Sheets Written or printed material concerning a hazardous chemical, including the manufacturer’s name, the chemical’s synonyms, trade name, chemical family, hazardous ingredients, physical data, fire and explosion, hazard data, health hazard data, reactivity data, spill or leak procedures, special protection information, and special precaution (29 CFR 1900-1200 (g)).

NATIONAL RESPONSE TEAM – Regional teams made up of Federal agencies that protect our air, land and water

NRT -1 The Hazardous Materials Planning guide developed by the national Response Team in compliance with 42 U.S.C. 11001-11050

NRT -1A – Guide for the review of state and local emergency operations plans. Standard for assessing emergency plans

OIL -Oil includes oil of any kind or in any form including, without limitation, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

OSHA - Occupational Safety and Health Administration, created by the Occupational Safety and Health Act of 1970, 29 U.S.C.A. 651 et seq.

OSHA Hazard- An occupational safety and health standard intended to ensure that the hazards of all Communications chemicals produced or imported are evaluated, and that information is transmitted to Standard employers and employees (*Reference 1910.1200 ‘Hazard Communication)*

RQ -Reportable Quantity is the amount of an EHS or CERCLA hazardous substance released into the environment within a 24-hour period. For all other substances the RQ is one pound. 40 CFR 355, Appendices A and B, includes RQs for EHSs and 40 CFR, Table 302.4, describes the RQs for CERCLA hazardous.

SARA -Superfund Amendments and Reauthorizations Act of 1986, 100 Stat. 1747, 42 U.S.C.A. Sections 11001-110050 and regulations adopted thereunder.

SERC - State Emergency Response Commission.-as defined in WV Code §15-5A-4

TITLE III – Emergency Planning and Community Right-to-Know Act of 1986 is part of the Superfund Amendments and Reauthorization Act of 1986.

TPQ- Threshold Planning Quantity is the amount of extremely hazardous substances (EHSs), in pounds present in a facility that triggers a reporting requirement. A list of EHSs and their TPQs can be found in 40 CFR 355. All hazardous substances have a TPQ of 10,000 lbs.

US CODE: Title 42, Chapter 116 – Emergency Planning and Community Right-to-Know Act

## **LIST OF LEGISLATION, REGULATIONS, PUBLICATIONS, & OTHER MATERIALS**

### **LEGISLATION AND REGULATIONS**

#### *PUBLICATIONS AND OTHER MATERIALS*

1. General. There are a great many sources of references for the SARA Title III Program. This attachment provides a listing of references and also notes the Agency responsible to publish the references.
2. Listing of References. The references on the next two pages are but a portion of materials that are available from various private or governmental sources. This list was developed from listings published by USEPA and FEMA. The Committee should develop its own listing of publications, documents, audio-visual materials, etc.

#### **Federal**

1. Superfund Amendments and Reauthorization Act of 1986. Titles I and III.
2. Comprehensive Environmental Response Compensation Liability Act of 1980 (Superfund).
3. Occupational Safety and Health Administration Standards.
4. Clean Water/Federal Water Pollution Control Act, PL95-2F1.
5. Hazardous Materials Transportation Act, PL93-633 (As amended).
6. Oil Pollution Act of 1980 (As amended).
7. Clean Air Act
8. Toxic Substance Control Act (TSCA)
9. Resource Conservation and Recovery Act of 1976 (RCRA)

#### **Federal Documents:**

Handbook of Chemical Hazard 1987 FEMA EMA/LEPC Analysis Procedures  
Technical Guidance for Hazards Analysis 1987 FEMA EMA/LEPC (Emergency Planning for EHS)  
EPA 230 Risk Communication About Chemicals in 1989 USEPA EMA/LEPC Your Community (For Local Officials)  
CPG 1-5 Objectives for Local Emer Management 1995 FEMA EMA  
CPG 1-20 Emergency Operating Centers Handbook 1984 FEMA  
Exercise Design Course (3 Workbooks) 1989 FEMA EMA  
SM 170.1 Student Workbook 1989 FEMA  
SM 170.2 Guide to Emergency Management Exer 1989 FEMA  
SM 170.3 Exercise Scenarios 1989 FEMA  
NRT-1 HM Emergency Planning Guide 1987 NRT/FEMA EMA/LEPC  
NRT-2 Developing a HM Exercise Program 1990 NRT/FEMA EMA/LEPC

Preparedness for HM Emergencies 1991 FEMA EMA/LEPC in Railyards  
A Guide for Emergency Highway Traffic 1988 FEMA USDOT Regulation  
CPG 1-6 Disaster Operations Handbook 1972 FEMA EMA  
SLG 101 Guide for All-Hazard Emergency 1996 FEMA EMA Operations Planning  
FEMA's Hazardous Materials Topics and Workshops (1993 thru 1995)

\* Additional reference materials will be added as they are available.

## LISTING OF REFERENCES

The references noted below are a small portion of materials that are available from various private and/or government sources. This list was developed from listings published by the EPA and FEMA. The LEPC needs to develop its own listing of publications, documents, audio-visual materials, etc. that it has available or intends to put in its library.

### Internet Resources

A source of information is the Internet. A vast amount of information is available through bulletin boards and Internet Home pages. @ The LEPC user must still purchase, or borrow, a computer system equipped with a large volume printer and pay for telephone line usage or a monthly fee for access to these information sources. The EPA, as an administrator of EPCRA, has taken the lead in providing electronic information assistance to the SERCs/TERCs, LEPCs, industry, and the public. The Chemical Emergency Preparedness and Prevention Office (CEPPO) have developed an extensive home page and bulletin board system. Websites of interest to LEPC's include (obviously, this is not all that is out there -- this is meant to simply get an LEPC started):

1 CEPPO HOMEPAGE  
*<http://www.epa.gov/ceppo/>*

CEPPO provides leadership, builds partnership, and offers technical assistance to prevent and prepare for chemical emergencies, respond to environmental crisis and inform the public about chemical hazards in their community. From this website, you can also request a copy of CAMEO, download the chemical reactivity datasheet, and link too many other important sites for hazardous materials preparedness and response.

1 DEPT OF TRANSPORTATION  
*<http://hazmat.dot.gov/>*

DOT is responsible for coordinating a national safety program for the transportation of hazardous material by air, rail, highway and water.

1 OSHA HOMEPAGE  
*<http://www.osha.gov/>*

OSHA is responsible to save lives, prevent injuries and protect the health of American=s workers.



- 1 [NIOSH HOMEPAGE](http://www.cdc.gov/niosh/homepage.html)  
<http://www.cdc.gov/niosh/homepage.html>

NIOSH is the only federal institute responsible for conducting research and making recommendations for the prevention of work - related illness and injuries.

- 1 [NOAA HOMEPAGE](http://response.restoration.noaa.gov/)  
<http://response.restoration.noaa.gov/>

NOAA provides information for emergency responders and planners, and working to understand and mitigate the effects of oil and hazardous materials in our waters and along our coasts.

- 1 [EMERGENCY RESPONSE TO CHEMICAL/BIOLOGICAL TERRORIST INCIDENTS](http://www.emergency.com/cbwlesn1.htm)  
<http://www.emergency.com/cbwlesn1.htm>

ERCBTI web site was developed by the International Associations of Fire Chiefs (IAFC) to investigate the responsibility of local firefighting, police and emergency medical units to cope with a terrorist attack that used nuclear or chemical weapons.

- 1 [ERNS ON THE INTERNET](http://www.epa.gov/ERNS/)  
<http://www.epa.gov/ERNS/>

ERNS is a database used to store information on notifications of oil discharges and hazardous substances releases.

- 1 [FEMA HOMEPAGE](http://www.fema.gov/)  
<http://www.fema.gov/>

Provides valuable information and publications concerning emergency management issues, including hazardous materials preparedness at the local level.

- 1 [CHEMICAL SAFETY BOARD](http://www.csb.gov)  
<http://www.csb.gov>

Site dedicated to the investigation of major chemical accidents, and information on the causes of accidental releases.

***The West Virginia Office of Emergency Services name has been changed to the West Virginia Division of Homeland Security & Emergency Managemen. However, some portions of WV Code have not changed, specifically references in the Right-to-Know information was not changed. Legislation will be introduced in the 2006 session to rectify the situation.***

### Appendix K: LEPC Self-Evaluation Check

<b>1. Identification of Hazards</b>			
YES 9	NO 9	N/A 9	a) Our LEPC has identified facilities with extremely hazardous substances.
YES 9	NO 9	N/A 9	b) Our LEPC has identified facilities with hazardous chemicals.
YES 9	NO 9	N/A 9	c) Our LEPC has identified major transportation routes for extremely hazardous substances and hazardous chemicals.
YES 9	NO 9	N/A 9	d) Our LEPC has identified other facilities contributing to or subjected to risk that are in close proximity to those facilities with extremely hazardous substances or hazardous chemicals.
<b>2. LEPC Local Emergency Plan Development</b>			
YES 9	NO 9	N/A 9	a) Our LEPC has included Emergency Response information on those facilities identified in <b>1a</b> and <b>1b</b> in our Local Emergency Plan.
YES 9	NO 9	N/A 9	b) Our LEPC has included emergency response methods and procedures of first responders into our Local Emergency Plan.
YES 9	NO 9	N/A 9	c) Our LEPC has included emergency response measures used by medical personnel in our Local Emergency Plan.
YES 9	NO 9	N/A 9	d) Our LEPC has identified emergency equipment available in the community and at the facilities identified in <b>1a</b> and <b>1b</b> , as well as the persons responsible for them, and has included this information in our Local Emergency Plan.
YES 9	NO 9	N/A 9	e) Our LEPC has established plans for shelter-in-place or evacuation. It has established early warning systems and has identified emergency shelters. This information has been included in our Local Emergency Plan.
YES 9	NO 9	N/A 9	f) Our LEPC has designated emergency coordinators within the community and at facilities having extremely hazardous substances or hazardous chemicals, who will be responsible for implementing the Local Emergency Plan. This information is included in our Local Emergency Plan.
<b>3. Implementing the Local Emergency Plan</b>			
YES 9	NO 9	N/A 9	a) Our LEPC has established notification procedures by which facility coordinators, identified in <b>2f</b> , will notify first responders in the event of an extremely hazardous substance or hazardous chemical emergency.
YES 9	NO 9	N/A 9	b) Our LEPC has established notification procedures by which the public will be notified in the event of an extremely hazardous substance or hazardous chemical emergency.
YES 9	NO 9	N/A 9	c) Our Local Emergency Plan describes the incident command system to be used in responding to hazardous chemical emergencies.
<b>4. Hazard Analysis</b>			

YES 9	NO 9	N/A 9	a) Our LEPC has established a process to determine whether extremely hazardous substances or hazardous chemicals have been involved in past accidents.
YES 9	NO 9	N/A 9	b) Our LEPC has established a process to determine the level of risk if extremely hazardous substance or hazardous chemicals are involved in an accident.
YES 9	NO 9	N/A 9	c) Our LEPC has established a process to determine the areas and populations that will be affected in the event that extremely hazardous substances or hazardous chemicals are released.
<b>5. Emergency Response Exercises</b>			
YES 9	NO 9	N/A 9	a) Our LEPC has developed emergency response drills and exercises to evaluate the effectiveness of our Local Emergency Plan.
YES 9	NO 9	N/A 9	b) Our LEPC has established a schedule to regularly conduct drills and emergency response exercises.

<b>6. LEPC Organizational Maintenance</b>			
YES 9	NO 9	N/A 9	a) Our LEPC regularly schedules, announces, and holds meetings.
YES 9	NO 9	N/A 9	b) Our LEPC annually reviews, and revises if necessary, our Local Emergency Plan.
YES 9	NO 9	N/A 9	c) Our LEPC regularly conducts exercises and tests emergency procedures.
YES 9	NO 9	N/A 9	d) Our LEPC has developed procedures for responding to inquiries concerning extremely hazardous substances or hazardous chemicals in the community.
<b>7. Facility Compliance</b>			
YES 9	NO 9	N/A 9	a) Our LEPC actively seeks to increase the number of facilities in our community that must annually report extremely hazardous substances or hazardous chemicals.
YES 9	NO 9	N/A 9	b) Our LEPC regularly contacts each reporting facility to promote better understanding of EPCRA requirements by the facility owner or operator.
YES 9	NO 9	N/A 9	c) Our LEPC provides both basic and detailed EPCRA information to new businesses.
<b>8. Public Awareness</b>			
YES 9	NO 9	N/A 9	a) Our LEPC develops articles about EPCRA and prints an annual notice for local news releases.
YES 9	NO 9	N/A 9	b) Our LEPC provides public service announcements concerning EPCRA to local radio and television stations.

## Appendix L: Detailed Report Card for Your LEPC

By Paul Orum, Working Group on Community Right-to-Know (202-544-9586) & Susan Greenberg, Environmental Health Watch (216-961-4646)

Are the LEPCs working? Below are some criteria for evaluating a LEPC.

Check each item completed by the LEPC. Items completed:

51 to 60 ..... Outstanding                       41 to 50 ..... Good                       31 to 40 ..... Progressing  
 21 to 30 ..... Mediocre                       11 to 20 ..... Inadequate                       0 to 10 ..... Non-functional

### 1. Goals

Established measurable outcome goals for c

- reducing accidents?
- reducing vulnerability zones and accident potentials?
- improving emergency response and mitigation?
- established goals for public access to chemical hazards information?
- set process objectives (for funding, participation, communication, etc.) and annually evaluated progress toward achieving goals?

### 2. Structure and Process

- achieved genuinely broad-based and balanced membership?
- secured adequate funding sources and professional staffing (through legislation, agency budgets, donations, etc.)?
- adopted a mission statement and by-laws ?
- held regular, well-attended meetings (at least quarterly)?
- held formal meetings (advance agenda, written minutes)?
- organized active subcommittees and established clear member roles?
- maintained policy independence from the host agency?
- produced an annual report (covering trends in accidents, hazards, enforcement, drills, site-specific risk reduction, etc.)?
- utilized external resources such as other LEPCs and government agencies (e.g., to obtain training materials)?

### 3. Community Hazards Analysis (For facilities with extremely hazardous substances, EHSs):

- developed easily understood community maps showing EHS facilities, vulnerability zones, and transportation routes?
- obtained needed EHS facility data through questionnaires, site visits, and document requests (using EPCRA 303(d)(3) authority)?
- obtained EHS facility process hazard analysis (prepared under OSHA's Process Safety Management regulations)?
- asked transportation carriers to identify chemicals and volumes moving through the community?
- prepared or obtained a worst-case and lesser release scenarios at each EHS facility and for transportation?
- identified critical facilities, vulnerable environments, and potentially exposed populations (e.g., schools, nursing homes, residential areas, workers on site)?
- reviewed hazard analysis with EHS facility managers and workers (including shelter-in-place and evacuation needs)?
- established computerized hazards analysis capabilities?
- prioritized hazards (e.g., by vulnerability zone)?

### 4. Emergency Response Planning

- submitted a site-specific emergency plan to the State Emergency Response Commission?
- exercised the emergency plan and corrected identified weaknesses?
- ensured coordination between EHS facilities and fire departments, as well as other response organizations (police, hospitals, etc.)?
- sponsored training for fire, medical, police, hazmat teams, and other response personnel?
- ensured that hazards analyses are incorporated into fire pre-plans?
- established alert and warning systems (and coordinated systems among facilities)?
- established means to determine the severity of a release, and the area and population likely to be affected?
- planned shelters and evacuation routes?
- designated community and facility emergency response coordinators?
- maintained an inventory of emergency response resources (equipment, facilities and expertise)?
- provided education on protective actions (evacuation/shelter-in-place)?
- evaluated the protective capacity of shelter-in-place structures?
- acknowledged the limits of emergency response capabilities for protecting people, property, and the environment?

### 5. Accident Prevention

- promoted exploration of inherently safer technologies (involving safer chemicals, lower pressure or temperatures, less storage, fewer shipments, etc.)?
- promoted other facility safety improvement (e.g., secondary containment, automatic shutoffs, alarms, etc.)?
- provided the hazard analysis to planning commissions, zoning boards, public works, citizen advisory councils, and other local entities?
- acquainted facilities with hazard reduction resources (e.g., financing)?
- held seminars for facility personnel, union health and safety committees, etc.?
- analyzed spill reports for response and prevention lessons?
- publicized lessons learned and best practices?
- given recognition for hazard reduction efforts (e.g., annual awards)?

**6. Community Right-to-Know**

- publicized availability of right-to-know information?
- computerized data for ease of access and analysis?
- established a convenient information request process?
- provided Tier II chemical storage information as required?
- publicized community hazard maps with vulnerability zones through libraries and news media?
- publicized options for reducing vulnerable zones (e.g., through safer technologies)?
- ensured that meetings are accessible and well-publicized (time, place, publicity)?
- worked with communities concerned about specific sites (e.g., through good neighbor agreements)?

**7. Enforcement**

- publicized reporting requirements to covered facilities and transportation carriers?
- provided compliance to facilities and carriers?
- uncovered and prosecuted non-reporting firms?
- pursued beneficial expenditures in settling citizen suits against non-reporting firms?

**8. Risk Management Planning**

- evaluated its own capacity to review hazards and communicate RMP information to the public?
- offered compliance assistance to covered facilities?
- prepared to incorporate options for reducing vulnerability zones into public communications?