

COLORADO EMERGENCY PLANNING COMMISSION
ADVICE AND GUIDANCE FOR COLORADO
LOCAL EMERGENCY PLANNING COMMITTEES

November 4, 2004

The intent of this document is to pass on two types of information. The first comes from policy statements and actions of the Colorado Emergency Planning Commission. The second comes from the collected experiences of LEPCs working in this and other states. It is assumed that the reader will have some background and experience in EPCRA and related statutes. This document does not include an analysis of LEPC legal authorities and powers.

Organization & Membership

Your membership is approved by the CEPC. While initially nominations for membership came from county commissioners, that is no longer the practice. Once established, LEPCs are responsible for advising the CEPC of their membership changes over time and seeking approval. The CEPC asks that this be done at least annually.

The only “officer” required is a chair. This person functions as the point of contact for the CEPC, the public and for regulated facilities.

Broad membership is encouraged. While there is a list of membership types in EPCRA, the CEPC recognizes that it is not realistic to find all of those types of people in every community. On the other hand, membership should not be limited. Anyone with an interest, a desire to assist with projects, and good manners should be encouraged to join and participate.

By-laws are not required, but they are commonly used. The function of by-laws seems to be primarily to provide some structure to membership decisions and the election of the chair. As a practical matter LEPCs tend to function in a consensus fashion rather than using a formal vote process. Exceptions would be the rare event when the LEPC intends to pursue legal enforcement of its information requests.

Some LEPCs maintain a checking account, which will require an EIN from the IRS. The purpose of the checking account is to hold donations which may be received from people interested in LEPC activities or from grants.

Dealing with Facilities

The power of LEPCs is to obtain information relevant to emergency planning. Both owners and operators of facilities are responsible for providing this information. Sometimes owners will argue that they lease the facility and are not responsible. It has been the policy of the CEPC to support LEPCs demanding information on the premise that facility owners and operators are both responsible and that working out the dynamics of reporting is between them rather than becoming the LEPC’s problem.

LEPCs should be able to articulate why they are asking for information beyond the routine Tier II form. There are, of course, many potential reasons. The point here is then when asking a facility for more information it should be clear to that facility that the information is important to the community.

Provide facilities with the opportunity to demonstrate their good corporate citizenship. Many try hard to reduce risks and support first responders. Through exercises, public meetings and other activities it is important for LEPCs to recognize and reward these activities.

Dealing with the Public

As a general rule, all EPCRA-related information in the possession of the LEPC is publically available. Requests for CAA Sec. 112r Risk Management Plans and even Tier II data can be routed through my office. The CEPC has designated the Jefferson County LEPC as the state-wide public access point for RMPs as LEPCs do not typically have a copy of these plans and as certain security restrictions apply. If an LEPC wants a copy of these plans, it is available through my office.

Encourage the public to participate on the LEPC. If they have questions about preparedness or facility safety, it is always appropriate to ask the public to come to the meeting to discuss their concerns. Many LEPCs favor referring all such inquiries directly to the facility. While this is effective in improving facility/public relations in many cases, it is equally true that many times the involvement of the LEPC will be useful in creating some context for the discussion. Keep in mind the fact that first responder organizations are just as responsible to the public as the facility.

One of the hardest tasks faced by an LEPC is creating public awareness and preparedness. LEPCs should look for opportunities through the schools, civic groups, youth programs, churches and any other organization active in the community to accomplish this mission. Of course, its equally important for the LEPC to have some sense of what that mission means in their community. Missions are discussed below.

Liability

LEPC members have broad immunity from liability under state statute. The question of possible liability should not trouble any LEPC member or their employer.

Enforcement

LEPCs are not enforcement agencies for any purpose other than enforcement of their own information requests to facilities. They may function as a resource in providing contacts between people with environmental enforcement concerns and the appropriate agency. This is a frequent role of LEPCs in Colorado.

Enforcement of information requests is in the Federal Court. Several Colorado LEPCs have filed these actions and all have been successful in causing the facility to provide the desired reports. If you are facing a problem with a facility refusing to honor an information request feel to call me for further information.

It is important to understand that LEPCs tend to be able to get information - even beyond that typically available under EPCRA - by couching the request in terms of community needs. No facility owner or operator wants to be responsible for an injury to a first responder caused by inadequate information on the risks present in the facility. The CEPC has encouraged this approach many times in the past and it has been quite successful.

Planning and Mission

If you simply read EPCRA you will have the impression that the LEPCs are suppose to develop emergency response plans for hazardous substances. This is obviously not necessary as such plans exist within first response agencies and local emergency management offices. Instead, the CEPC encourages LEPCs to be active in providing information and input to these agencies in order to help them improve the plans.

In some communities the LEPC has become a broader emergency planning agency within the community. This happens because the cooperation and resources available within the LEPC make this the most efficient approach. The CEPC certainly encourages this arrangement when it is productive for the community.

Most LEPCs consider and adopt projects based upon core missions they feel are important in the community. These may be any variety of matters, but generally they are focused on a desire to protect first responders and the public through better information and awareness. Consideration must be given to the resources available and the interests of the members. The CEPC will support a vast range of activities as long as they have some relationship to the intent of EPCRA.

Use the very substantial information gathering power to do more than just collect boxes of paper. Many LEPCs focus their activities on information requests that bring facilities closer to the first responder community. Examples are fire department approval of contingency plans and exercise organization.

Lastly, continue to make the effort to improve public awareness and preparedness. Encourage the very basic things such as 72-hour emergency kits, first aid training, household fire safety, household hazardous waste collection and the myriad of other activities that may be useful in your community. Think expansively in terms of the benefits that you may be able to impart. The late Jim Makris - widely called the "father" of EPCRA - once said that its best to think of LEPCs as local "environmental" protection committees as he saw them working much more broadly to improve conditions in their communities.

Getting Help

The CEPC members stand ready to meet with LEPCs and others to discuss these programs and policies. They stand ready to help you get information and answer questions. The Colorado LEPC Handbook is available at www.gcglc.com/LEPC.htm and on a CD-Rom at your request. The CEPC occasionally has grant money available for LEPC planning and training activities and you are encouraged to propose projects that will benefit your communities.