

LINCOLN COUNTY
Local Emergency Planning Committee
Wednesday, September 13, 2023 at 2:30 pm
Service Center: Rm. 257, County Board Room

Electronic Attendance Available: Persons wishing to attend the meeting electronically may enter the meeting prior to the start time indicated above using the following number or address:

Conference Call: +1 (806) 316-5482
Access Code: 405 838 389 #
Meeting ID: <https://tel.meet/sxz-bvua-rag?pin=4095745596356>

The teleconference cannot start until the host (department head) dials in and enters the host password. In the event there is an unforeseen technical difficulty that prevents all or a part of the meeting from being available electronically, the meeting will continue in person and those wishing to attend can appear in person at the location indicated in this agenda.

Attendance Policy: All public participants' phones, microphones and chat dialog boxes must be muted or disabled during the meeting.

AGENDA

1. Call Meeting to Order
2. Approve Minutes August 9, 2023
3. Public Comment
4. Spill Reports
5. Historical Spill Report Review
6. Local Emergency Planning Committee (LEPC) Review
 - a. Authority, Scope, and Responsibilities
 - i. Review of By-Laws
7. Emergency Planning and Community Right-to-Know Act (EPCRA) Strategic Plan
 - a. LEPC By-Laws
 - b. LEPC Outreach
 - c. LEPC Off-Site Plans
 - d. LEPC County Wide Hazmat Plan
 - e. LEPC Exercise
8. TENATIVE//Guest Speaker: Jason Danz, Watco/FOXY General Manager
9. Set Next Meeting Date; Adjourn

DISTRIBUTION: Local Emergency Planning Committee Members—Rick Burns, Elizabeth McCrank, Josh Klug, Cheryl Skoug, Michael Caylor, Other County Supervisors, Department Heads, and Local Media

Posted on: _____ at: _____ a.m./p.m. by: _____

There may be a quorum of other Lincoln County committees present at this meeting. Requests for reasonable accommodations for disabilities or limitations should be made prior to the date of this meeting. You may contact the County Clerk at 715.539.1019. Please do so as early as possible so that proper arrangements can be made. Requests are kept confidential.

GENERAL REQUIREMENTS:

1. Must be held in a location which is reasonably accessible to the public.
2. Must be open to all members of the public unless the law specifically provides otherwise.

NOTICE REQUIREMENTS:

1. In addition to any requirements set forth below, notice must also be in compliance with any other specific statute.
2. Chief presiding officer or his/her designee must give notice to the official newspaper and to any members of the news media likely to give notice to the public.

MANNER OF NOTICE:

Date, time, place, and subject matter, including subject matter to be considered in a closed session, must be provided in a manner and form reasonably likely to give notice to the public.

TIME FOR NOTICE:

1. Normally, a minimum of 24 hours prior to the commencement of the meeting.
2. No less than 2 hours prior to the meeting if the presiding officer establishes there is a good cause that such notice is impossible or impractical.

EXEMPTIONS FOR COMMITTEES AND SUB-UNITS:

Legally constituted sub-units of a parent governmental body may conduct a meeting during the recess or immediately after the lawful meeting to act or deliberate upon a subject which was the subject of the meeting, provided the presiding officer publicly announces the time, place, and subject matter of the sub-unit meeting in advance of the meeting of the parent governmental body.

PROCEDURE FOR GOING INTO CLOSED SESSION:

1. Motion must be made, seconded, and carried by roll call majority vote and recorded in the minutes.
2. If motion is carried, chief presiding officer must advise those attending the meeting of the nature of the business to be conducted in the closed session, and the specific statutory exemption under which the closed session is authorized.

STATUTORY EXEMPTIONS UNDER WHICH CLOSED SESSIONS ARE PERMITTED:

1. Deliberation of judicial or quasi-judicial matters. Sec. 19.85(1)(a)
2. Considering dismissal, demotion, or discipline of any public employee or the investigation of charges against such person and the taking of formal action on any such matter; provided that the person is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action is taken. The person under consideration must be advised of his/her right that the evidentiary hearing be held in open session and the notice of the meeting must state the same. Sec. 19.85(1)(b).
3. Considering employment, promotion, compensation, or performance evaluation data of any public employee. Sec. 19.85(1)(c).
4. Considering strategy for crime detection or prevention. Sec. 19.85(1)(d).
5. Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session. Sec. 19.85(1)(c).
6. Considering financial, medical, social, or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of specific charges, which, if discussed in public would likely have an adverse effect on the reputation of the person referred to in such data. Sec. 19.85(1)(f).
7. Conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. Sec. 19.85(1)(g).
8. Considering a request for advice from any applicable ethics board. Sec. 19.85(1)(h).

CLOSED SESSION RESTRICTIONS:

1. Must convene in open session before going into closed session.
2. May not convene in open session, then convene in closed session and thereafter reconvene in open session with twelve (12) hours unless proper notice of this sequence was given at the same time and in the same manner as the original open meeting.
3. Final approval or ratification of a collective bargaining agreement may not be given in closed session.

BALLOTS, VOTES, AND RECORDS:

1. Secret ballot is not permitted except for the election of officers of the body or unless otherwise permitted by specific statutes.
2. Except as permitted above, any member may require that the vote of each member be ascertained and recorded.
3. Motions and roll call votes must be preserved in the record and be available for public inspection.

USE OF RECORDING EQUIPMENT:

The meeting may be recorded, filmed, or photographed, provided that it does not interfere with the conduct of the meeting or the rights of the participants.

LEGAL INTERPRETATION:

1. The Wisconsin Attorney General will give advice concerning the applicability or clarification of the Open Meeting Law upon request.
2. The municipal attorney will give advice concerning the applicability or clarification of the Open Meeting Law upon request.

PENALTY:

Upon conviction, any member of a governmental body who knowingly attends a meeting held in violation of Subchapter IV, Chapter 19, Wisconsin Statutes, or who otherwise violates the said law shall be subject to forfeiture of not less than \$25.00 nor more than \$300.00 for each violation.

LOCAL EMERGENCY PLANNING COMMITTEE

Tuesday, August 9, 2023, 2:30 PM

Meeting Location: Room 255/257/260 Government Services Center
801 N. Sales St., Merrill, WI 54452

MEMBERS PRESENT: Rick Burns, Elizabeth McCrank, Josh Klug, and Cheryl Skoug

MEMBERS EXCUSED: None

VISITORS IN PERON: Tyler Verhasselt, Robert Caylor, Chris Marlowe, and Hope Knuijt

VIRTUAL ATTENDANCE: None

MINUTES

1. Call Meeting to Order by Burns at 2:30 pm.
2. Approved Minutes of July 12, 2023; M/S McCrank/Skoug—carried.
3. Public Comment: None
4. Spill Reports:
 - a. 15 gallons of gasoline in the Town of Merrill
 - b. T. Verhasselt will add any LEPC members or members of the first responder community who would like to receive notice to a notification matrix for spill reports
 - c. R. Caylor identified a large spill in Tomahawk; Tyler Verhasselt will investigate previous spills while the Director of Emergency Management position sat vacant
5. Local Emergency Planning Committee Review:
 - a. Authority Scope, and Responsibilities
 - i. By-law review; identified re-work of by-laws to read authority, scope, and responsibility of LEPC
 - ii. Will work with K. Johnson, Corporation Counsel, to better understand the positions listed in the by-laws
6. Emergency Planning and Community Right-to-Know Act (EPCRA) Strategic Plan:
 - a. T. Verhasselt suggested a crawl, walk, run phase to reviewing EPCRA strategic plan to include by-laws, outreach, off-site plans, county wide hazmat plan, and exercise
7. Office of Energy Innovation Refueling Readiness Grant
 - a. December 1 deadline; T. Verhasselt has coordinated with J. Hanz who has shown interest in applying for this grant
 - b. T. Verhasselt will attempt to reach out to private organizations to educate them on the opportunity
8. Lincoln County Railway Stakeholder
 - a. Watco and Fox Valley & Lake Superior Rail System (FOXY)
 - i. T. Verhasselt introduced name and contact information for General Manager and Senior Train Master; will invite to up-coming to LEPC meeting and encourage them to plan/host tabletop exercise
9. Next Meeting set for September 6, 2023 at 2:30 pm.

Minutes prepared by: Tyler Verhasselt



Tyler Verhasselt <tyler.verhasselt@co.lincoln.wi.us>

WI SPILL #19604 ID 20230906NO35-1 - DIESEL

1 message

jeffrey.paddock@wisconsin.gov <jeffrey.paddock@wisconsin.gov>
To: tyler.verhasselt@co.lincoln.wi.us

Wed, Sep 6, 2023 at 12:22 PM

SERTS ID:
20230906NO35-1

Reported:
09/06/2023 09:38

Occurred:
09/05/2023 05:00

Substance:
DIESEL
Released Amt: 10 Gal
Recovered Amt: UNKNOWN
(AMOUNTS ARE OFTEN ESTIMATED)

Reported by:
WARDEN HEATH HAMPTON
CONSERVATION WARDEN
WDNR
heath.hampton@wisconsin.gov
(715) 599-7902

Location:
NO REGION
LINCOLN COUNTY
BRADLEY, TOWNSHIP OF
HIGHWAY 51 ON RAMP
STH 8 & US 51
ON RAMP TO HIGHWAY 51 SOUTH

Responsible Party:
MICHAEL JAMES GUTH
529 WEST BREITUNG AVENUE
KINGSFORD, MI 49802
(555) 555-5555

Cause:

TRANSPORTATION ACCIDENT, FUEL TANK SPILL

Cause Description:

SADDLE TANK WAS PUNCTURED BY DEBRIS. PULLED TO SIDE OF ROAD, SPILLED APPROXIMATELY 10-15 GALLONS OF DIESEL SPILLED.

Environmental Impact:

FIRE DEPARTMENT USED OIL DRY TO CLEAN UP DIESEL, SOME MAY HAVE IMPACTED SHOULDER GRAVEL.

Weather:

SUNNY

Cleanup:

USED OIL DRY, MAY HAVE IMPACTED SHOULDER.

Submitted by:

JEFFREY PADDOCK

(715) 828-8544

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zana.sijan@wisconsin.gov

brtsno	locname	locaddr	loccity	county	region	startdate	enddate	activityname	activityaddress	creationdate	creationuser	lastupdate
4.36E+08	HIGHWAY K, NORTH OF INTERSEVTION	HWY 51 AND HWY K	MERRILL	LINCOLN	NO	12/27/2022 0:00	12/28/2022 0:00	PLAUTZ LOGGING AND EXCAVATION SPILL	DIESEL SPILL	12/28/2022 14:51	WEBFORM	12/28/2022 15:26
4.36E+08	KRIETE TRUCK CENTER	1017 N 4TH ST	TOMAHAWK	LINCOLN	NO	1/9/2023 0:00	2/7/2023 0:00	CHIEF OIL TRUCKING SPILL	SPILL IN PARKING LOT	2/13/2023 10:25	WEBFORM	2/13/2023 10:57
4.36E+08	LOUSIANA PACIFIC	927 SOUTHGATE DR	TOMAHAWK	LINCOLN	NO	9/26/2022 0:00	6/2/2023 0:00	LOUISIANA PACIFIC SPILL	LUMBER YARD HYDRAULIC OIL SPILL	6/2/2023 14:49	WEBFORM	6/2/2023 14:57

Lincoln County: Local Emergency Planning Committee (LEPC) By-Laws



**LINCOLN COUNTY
EMERGENCY MANAGEMENT**



FEMA



2023

**Lincoln County Board of
Supervisors Chair**
Don Friske

**Lincoln County
Administrative Coordinator**
Renee Krueger

**Lincoln County Director of
Emergency Management**
Tyler Verhasselt

**Lincoln County
LEPC Chair**
Richard Burns

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I. Table of Contents

II. Authority	5
A. Introduction.....	5
B. Federal Law	5
1. 42 USC 11001, <i>Establishment of State commissions, planning districts, and local emergency planning committees:</i>	5
2. 42 USC 11002, <i>Substances and facilities covered and notification:</i>	5
3. 42 USC 11003, <i>Comprehensive emergency response plans:</i>	6
4. 42 USC 11004, <i>Emergency notification:</i>	7
5. 42 USC 11021, <i>Material safety data sheets:</i>	8
6. 42 USC 11022, <i>Emergency and hazardous chemical inventory forms:</i>	8
7. 42 USC 11044, <i>Public availability of plans, data sheets, forms, and follow-up notices:</i>	10
8. 42 USC 11046, <i>Civil actions:</i>	10
C. Wisconsin State Statutes	11
1. Wisconsin § 59.54(8), Wisconsin § 59.54(8), <i>Local Emergency Planning Committee</i>	11
2. Wisconsin § 323.14, <i>Local government; duties and powers</i>	11
3. Wisconsin § 323.60, <i>Hazardous substances information and emergency planning</i>	11
4. Wisconsin § 323.61, <i>Emergency planning grants</i>	11
5. Wisconsin § 323.71, <i>Local agency response and reimbursement</i>	12
D. County Ordinances.....	12
1. Lincoln County Municipal Ordinance 6.03, <i>County Local Emergency Planning Committee</i>	12
III. Scope of Work	13
A. Public Access to Information.....	13
B. Requests for MSDSs and Other Non-Confidential Information	14
C. Requests for Tier Two Information	14
IV. Membership and Meetings.....	15
A. Active Members:.....	15
1. The Chair	15
2. The Vice-Chair.....	15
3. The Secretary	15
4. The Information Coordinator	15
B. Inactive Members.....	16
C. Removal of Members.....	16
D. Vacancies	16

E. Meetings..... 16

 1. Regular Meetings..... 16

 2. Special Meetings..... 16

 3. Hearings..... 16

F. Quorum..... 16

G. Agenda..... 16

H. Notice of Meetings..... 17

I. Voting..... 17

J. Disqualification..... 17

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II. Authority

A. Introduction

In accordance with the Emergency Planning and Community Right-To-Know Act (EPCRA), which is also known as the Superfund Amendments and Reauthorization Act (SARA) of 1986 at the state and local levels, the federal government places full responsibility on state, tribal, and local agencies to prepare for, respond to, and protect the community from chemical accidents. To fulfill these responsibilities, EPCRA requires the establishment of specific governmental organizations.

These organizations are divided into three (3) levels: State Commissions, Planning Districts, and Local Committees. In Wisconsin, "Local Committee" falls to the responsibility of the county government and the draws its legal authority from three (3) sources: federal law, state statutes, and county ordinances. The compliance of laws, statutes, and ordinances are mandatory and subject to federal and state audits.

B. Federal Law

1. 42 USC 11001, *Establishment of State commissions, planning districts, and local emergency planning committees:*
 - (c) *Establishment of local emergency planning committees:* Not later than 30 days after designation of emergency planning districts or 10 months after October 17, 1986, whichever is earlier, the State emergency response commission shall appoint members of a local emergency planning committee for each emergency planning district. Each committee shall include, at a minimum, representative from each of the following groups or organizations: elected State and local officials; law enforcement, civil defense, firefighting, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and owners and operators of facilities subject to the requirements of this subchapter. Such committee shall appoint a chairperson and shall establish rules by which the committee shall function. Such rules shall include provisions for public notification of committee activities, public meetings to discuss the emergency plan, public comments, response to such comments by the committee, and distribution of the emergency plan. The local emergency planning committee shall establish procedures for receiving and processing requests from the public for information under section 11044 of this title, include tier II information under section 11022 of this title. Such procedures shall include the designation of an official to serve as coordinator for information.
2. 42 USC 11002, *Substances and facilities covered and notification:*
 - (c) *Emergency planning notification:* Not later than seven months after October 17, 1986, the owner or operator of each facility subject to the requirements of this subchapter by reason of subsection (b)(1) shall notify the State emergency response commission for the State in which such facility is located that such facility is subject to the requirements of this subchapter. Thereafter, if a substance on the list of extremely hazardous substances referred to in subsection (a) first becomes present at such facility in excess of the threshold planning quantity established for such substance, or if there is a revision of such list and the facility has present a substance on the revised list in excess of the threshold planning quantity established for such substance, the owner or operator of the facility shall notify the State emergency response commission and the local emergency planning committee within 60 days after such acquisition or revision that such facility is subject to the requirements of this subchapter.

3. 42 USC 11003, *Comprehensive emergency response plans*:
- (a) *Plan required*: Each local emergency planning committee shall complete preparation of an emergency plan in accordance with this section not later than two years after October 17, 1986. The committee shall review such plan once a year, or more frequently as changed circumstance in the community or at any facility may require.
 - (b) *Resources*: Each local emergency planning committee shall evaluate the need for resources necessary to develop, implement, and exercise the emergency plan, and shall make recommendations with respect to additional resources that may be required and the means for providing such additional resources.
 - (c) *Plan provisions*: Each emergency plan shall include (but is not limited to) each of the following:
 - (1) Identification of facilities subject to the requirements of this subchapter that are within the emergency planning district, identification of routes likely to be used for the transportation of substances on the list of extremely hazardous substances referred to in section 11002(a) of this title, and identification of additional facilities contributing or subjected to additional risk due to their proximity to facilities subject to the requirement of this subchapter, such as hospitals or natural gas facilities.
 - (2) Methods and procedures to be followed by facility owners and operators and local emergency and medical personnel to respond to any release of such substances.
 - (3) Designation of a community emergency coordinator and facility emergency coordinators, who shall make determinations necessary to implement the plan.
 - (4) Procedures providing reliable, effective, and timely notification by the facility emergency coordinators and the community emergency coordinator to persons designated in the emergency plan, and to the public, that a release has occurred (consistent with the emergency notification requirements of section 11004 of this title).
 - (5) Methods for determining the occurrence of a release, and the area or population likely to be affected by such release.
 - (6) A description of emergency equipment and facilities in the community and at each facility in the community subject to the requirements of this subchapter, and an identification of the persons responsible for such equipment and facilities.
 - (7) Evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes.
 - (8) Training programs, including schedules for training of local emergency response and medical personnel.
 - (9) Methods and schedules for exercising the emergency plan.
 - (d) *Providing of information*: For each facility subject to the requirements of this subchapter:
 - (1) Within 30 days after establishment of a local emergency planning committee for the emergency planning district in which such facility is located, or within 11 months after October 17, 1986, whichever is earlier, the owner or operator of the facility shall notify the emergency planning committee (or the Governor if there is no committee) of a facility representative who will participate in the emergency planning process as a facility emergency coordinator.
 - (2) The owner or operator of the facility shall promptly inform the emergency planning committee of any relevant changes occurring at such facility as such changes occur or are expected to occur.
 - (3) Upon request from the emergency planning committee, the owner or operator of the facility shall promptly provide information to such committee necessary for developing and implementing the emergency plan.

- (e) *Review by State emergency response commission:* After completion of an emergency plan under subsection (a) for an emergency planning district, the local emergency planning committee shall submit a copy of the plan to the State emergency response commission of each State in which such district is located. The commission shall review the plan and make recommendations to the committee on revisions of the plan that may be necessary to ensure coordination of such plan with emergency response plans of other emergency planning districts. To the maximum extent practicable, such review shall not delay implementation of such plan.
- (f) *Guidance documents:* The national response team, as established pursuant to the National Contingency Plan as established under section 9605 of this title, shall publish guidance documents for preparation and implementation of emergency plans. Such documents shall be published not later than five months after October 17, 1986.
- (g) *Review of plans by regional response teams:* The regional response teams, as established pursuant to the National Contingency Plan as established under section 9605 of this title, may review and comment upon an emergency plan or other issues related to preparation, implementation, or exercise of such a plan upon request of a local emergency planning committee. Such review shall not delay implementation of the plan.

4. 42 USC 11004, *Emergency notification:*

(a) *Types of releases:*

(3) *Non-11002(a) substance which requires CERCLA notice:* If a release of a substance which is not on the list referred to in section 1002(a) of this title occurs at a facility at which a hazardous chemical produced, used, or stored, and such release requires notification under section 103(a) of CERCLA [42 USC 9603(a)], the owner or operator shall provide notice as follows:

(A) If the substance is one for which a reportable quantity has been established under section 102(a) of CERCLA [42 USC 9603(a)], the owner or operator shall provide notice as described in subsection (b).

(B) If the substance is one for which a reportable quantity has not been established under section 102(a) of CERCLA [42 USC 9603(a)]—

(i) Until April 30, 1988, the owner or operator shall provide, for releases of one pound or more of the substance, the same notice to the community emergency coordinator for the local emergency planning committee, at the same time and in the same form, as notice is provided to the National Response Center under section 103(a) of CERCLA [42 USC 9603(a)].

(ii) On and after April 30, 1988, the owner or operator shall provide, for releases of one pound or more of the substance, the notice as described in subsection (b).

(b) *Notification:*

(1) *Recipients of notice:* Notice required under subsection (a) shall be given immediately after the release by the owner or operator of a facility (by such means as telephone, radio, or in-person) to the community emergency coordinator for the local emergency planning committee, if established pursuant to section 11001(c) of this title, for any area likely to be affected by the release and to the State emergency response commission of any State likely to be affected by the release. With respect to transportation of a substance subject to the requirements of this section, or storage incident to such transportation, the notice requirements of this section with respect to a release shall be satisfied by dialing 911 or, in the absence of a 911 emergency telephone number, calling the operator.

5. 42 USC 11021, *Material safety data sheets*:

(a) *Basic requirement*:

(1) *Submission of MSDS or list*: The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 [29 USC 651 et seq.] and regulations promulgated under that Act shall submit a material safety data sheet for each such chemicals as described in paragraph (2), to each of the following:

(A) The appropriate local emergency planning committee.

(c) *Availability of MSDS on request*:

(1) *To local emergency planning committee*: If an owner or operator of a facility submits a list of chemicals under subsection (a)(1), the owner or operator, upon request by the local emergency planning committee, shall submit the material safety data sheet for any chemical on the list to such committee.

(2) *To public*: A local emergency planning committee, upon request by any person, shall make available a material safety data sheet to the person in accordance with section 11044 of this title. If the local emergency planning committee does not have the requested material safety data sheet, the committee shall request the sheet from the facility owner or operator and then make the sheet available to the person in accordance with section 11044 of this title.

6. 42 USC 11022, *Emergency and hazardous chemical inventory forms*:

(a) *Basic Requirement*:

(1) The owner or operator of any facility which is required to prepare or have available a material safety data sheet for a hazardous chemical under the Occupational Safety and Health Act of 1970 [29 USC 651 et seq.] and regulations promulgated under that Act shall prepare and submit an emergency and hazardous chemical inventory form (hereafter in this chapter referred to as an “inventory form”) to each of the following:

(A) The appropriate local emergency planning committee.

(d) *Contents of form*:

(1) *Availability to State commissions, local committees, and fire departments*: Upon request by a State emergency response commission, a local emergency planning committee, or a fire department with jurisdiction over the facility, the owner or operator of a facility shall provide tier II information, as described in subsection (d), to the person making the request. Any such request shall be with respect to a specific facility.

(2) *Tier II information*: An inventory form shall provide the following additional information for each hazardous chemical present at the facility, but only upon request and in accordance with subsection (e):

(A) The chemical name or the common name of the chemical as provided on the material safety data sheet.

(B) An estimate (in ranges) of the maximum amount of the hazardous chemical present at the facility at any time during the preceding calendar year.

(C) An estimate (in ranges) of the average daily amount of the hazardous chemical present at the facility during the preceding calendar year.

(D) A brief description of the manner of storage of the hazardous chemical.

(E) The location at the facility of the hazardous chemical.

(F) An indication of whether the owner elects to withhold location information of a specific hazardous chemical from disclosure to the public under section 11044 of this title.

(e) *Availability of tier II information:*

- (1) *Availability to State commissions, local committees, and fire departments:* Upon request by a State emergency response commission, a local emergency planning committee, or a fire department with jurisdiction over the facility, the owner or operator of a facility shall provide tier II information, as described in subsection (d), to the person making the request. Any such request shall be with respect to a specific facility.
- (2) *Availability to other State and local officials:* A state or local official acting in his or her official capacity may have access to tier II information by submitting a request to the state emergency response commission or the local emergency planning committee. Upon receipt of a request for tier II information, the state commission or local committee shall, pursuant to paragraph (1), request the facility owner or operator for the tier II information and make available such information to the official.
- (3) *Availability to public:*
 - (A) *In general:* Any person may request a State emergency response commission or local emergency planning committee for tier II information relating to the preceding calendar year with respect to a facility. Any such request shall be in writing and shall be with respect to a specific facility.
 - (B) *Automatic provision of information to public:* Any tier II information which a State emergency response commission or local emergency planning committee has in its possession shall be made available to a person making a request under this paragraph in accordance with section 11044 of this title. If the State emergency response commission or local emergency planning committee does not have the tier II information in its possession, upon a request for tier II information the State emergency response commission or local emergency planning committee shall, pursuant to paragraph (1), request the facility owner or operator for tier II information with respect to a hazardous chemical which a facility has stored in an amount in excess of 10,000 pounds present at the facility at any time during the preceding calendar year and make such information available in accordance with section 11044 of this title to the person making the request.
 - (C) *Discretionary provision of information to public:* In the case of tier II information which is not in the possession of a State emergency response commission or local emergency planning committee and which is with respect to a hazardous chemical which a facility has stored in an amount less than 10,000 pounds present at the facility at any time during the preceding calendar year, a request from a person must include the general need for the information. The State emergency response commission or local emergency planning committee shall make the information available in accordance with section 11044 of this title to the person.
 - (D) *Response in 45 days:* A state emergency response commission or local emergency planning committee shall respond to a request for tier II information under this paragraph no later than 45 days after the date of receipt of the request.
- (4) *Availability to community water systems:*
 - (A) *in general:* An affected community water system may have access to tier II information by submitting a request to the state emergency response commission or the local emergency planning committee. Upon receipt of a request for tier II information, the State commission or local committee shall, pursuant to paragraph (1), request the facility owner or operator for the tier II information and make available such information to the affected community water system.
 - (B) *Definition:* In this paragraph, the term “affected community water system” means a community water system (as defined in section 300f(15) of this title) that receives

supplies of drinking water from a source water area, delineated under section 300j-13 of this title, in which a facility that is request to prepare and submit an inventory form under subsection (a)(1) is located.

7. 42 USC 11044, *Public availability of plans, data sheets, forms, and follow-up notices:*

- (a) *Availability to public:* Each emergency response plan, material safety data sheet, list described in section 11021(a)(2) of this title, inventory form, toxic chemical release form, and follow-up emergency notice shall be made available to the general public, consistent with section 11042 of this title, during normal working hours at the location or locations designated by the Administrator, Governor, State emergency response commission, or local emergency planning committee, as appropriate. Upon request by an owner or operator of a facility subject to the requirements of section 11022 of this title, the State emergency response commission and the appropriate local emergency planning committee shall without from disclosure under this section the location of any specific chemical required by section 11022(d)(2) of this title to be contained in an inventory form as tier II information.
- (b) *Notice of public availability:* Each local emergency planning committee shall annually publish a notice in local newspapers that the emergency response plan, material safety data sheets, and inventory forms have been submitted under this section. The notice shall state that follow-up emergency notices may subsequently be issued. Such notice shall announce that members of the public who wish to review any such plan, sheet, form, or follow-up notice may do so at the location designated under subsection (a).

8. 42 USC 11046, *Civil actions:*

(a) *Authority to bring civil actions:*

(2) *State or local suits:*

- (A) Any state or local government may commence a civil action against an owner or operator of a facility for failure to do any of the following:
 - (i) Provide notification to the emergency response commission in the State under section 11002(c) of this title.
 - (ii) Submit a material safety data sheet or a list under section 11021(a) of this title.
 - (iii) Make available information requested under section 11021(c) of this title.
 - (iv) Complete and submit an inventory form under section 11022(a) of this title containing tier I information unless such requirement does not apply by reason of the second sentence of section 11022(a)(2) of this title.
- (B) Any state emergency response commission or local emergency planning committee may commence a civil action against an owner or operator of a facility for failure to provide information under section 11003(d) of this title or for failure to submit tier II information under section 11022(e)(1) of this title.

C. Wisconsin State Statutes

1. Wisconsin § 59.54(8), Wisconsin § 59.54(8), *Local Emergency Planning Committee*
 - (a) The board shall do all of the following:
 1. Create a local emergency planning committee, with members as specified in 42 USC 11001(c), which shall have the powers and the duties establish for such committees under 42 USC 11000 to 11050 and under ss. 323.60 and 323.61.
 2. Control all expenditures by the committee that is created under this paragraph.
 3. Within the availability of state funds, take all actions that are necessary to ensure that the committee created under this paragraph properly executes the duties of a local emergency planning committee under 42 USC 11000 to 11050 and under ss. 323.60 and 323.61.
 4. At least annually, submit to the division of emergency management in the department of military affairs a list of the members of the local emergency planning committee appointed by the county board under this paragraph, including the agency, organization or profession that each member represents.
 - (b) The board may do any of the following:
 1. Appropriate funds for the operation of the committee that is created under par. (a).
 2. Implement programs and undertake activities which are designed to prepare the county to cope with emergencies involving the accidental release of hazardous substances and which are consistent with, but in addition to, the minimum requirements of ss. 323.60 and 42 USC 11000 to 11050.
2. Wisconsin § 323.14, *Local government; duties and powers*
 - (1)(a) Ongoing duties:
 3. Each county board shall designate a committee of the board as a county emergency management committee. The chairperson of the county board shall designate the chairperson of the committee. In counties having a county executive under ss. 59.17, the committee shall retain policy—making and rule—making powers in the establishment and development of county emergency management plans and programs.
3. Wisconsin § 323.60, *Hazardous substances information and emergency planning*
 - (3) Duties of committees:
 - (c) Consult and coordinate with the county board, the county and local heads of emergency management designated under ss. 323.14(1)(a)2 or (b)2, and the county emergency management committee designated under ss. 323.14(1)(a)3, in the execution of the local emergency planning committee’s duties under this section.
4. Wisconsin § 323.61, *Emergency planning grants*
 - (2m) Strategic plan: A committee is eligible for grant funds under sub. (2)(br) for emergency response equipment only if it submits to the division a strategic plan for emergency response to hazardous substance releases that includes all of the following:
 - (a) An analysis of the risks of hazardous substance releases in the county.
 - (b) Identification of the existing capability for emergency response to hazardous substance releases in the county.
 - (c) An assessment of needs, including equipment and training needs, related to emergency response to hazardous substance releases in the county.
 - (d) A process to maintain or increase the capability for emergency response to hazardous substance releases in the county.

- (e) Identification of a local emergency response team that is capable of responding to a level B release that occurs at any place in the and whose members meet the standards for hazardous materials technicians in 29 CFR 1910.120(q)(6)(iii) and national fire protection association standards NFPA 471 and 472.
 - (f) Procedures for local emergency response team actions that are consistent with local emergency response plans developed under ss. 323.60(3) and the state contingency plan established under ss. 292.11(5).
5. Wisconsin § 323.71, *Local agency response and reimbursement*
- (5)(a) The county board may designate a county employee or body as the reviewing entity under this subsection. If the county board does not make a designation, the local emergency planning committee is the reviewing entity.

D. County Ordinances

1. Lincoln County Municipal Ordinance 6.03, *County Local Emergency Planning Committee*
- (1) HOW CONSTITUTED. There is created the Lincoln County Local Emergency Planning Committee with powers and duties established for such committees under 42 USC 11000 to 11050 and under ss. 59.54(8)(a), 323.60, and 323.70, Wis. Stats. The County Board Chair, subject to confirmation of the Lincoln County Board of Supervisors, shall make appointments to the Committee and such individuals shall serve indefinite terms. The County Board Chair shall designate a county board supervisor to serve as the elected official member under Section (2)(a) of this Code Section, below.
 - (2) MEMBERSHIP. The Local Emergency Planning Committee shall include, at a minimum, representatives from each of the following groups or organizations:
 - (a) Elected State and local officials;
 - (b) Law enforcement, civil defense, firefighting, first aid, health, local environment, hospital, and transportation personnel;
 - (c) Broadcast and print media;
 - (d) Community groups; and
 - (e) Owners and operators of facilities subject to the requirements of 42 USC 11001 et seq.
 - (3) DUTIES. The County Local Emergency Planning Committee shall be responsible for establishing a plan to comply with the Superfund Amendments and Reauthorization Act – The Community Right-To-Know Law of 1986.

III. Scope of Work

The purposes of the LEPC are those set out in EPCRA and any other lawful purposes which are assigned to it or permitted by the county and/or the SERC. In keeping with the intent of EPCRA, all activities of the LEPC will be conducted in a manner encouraging input and participation from all segments of the community. The LEPC will develop a chemical emergency response and preparedness plan for the planning district and establish procedures for conducting its public information and education responsibilities. The plan shall be reviewed and updated as necessary on a regular annual basis, in accordance with Section 303 EPCRA. The LEPC shall, in addition:

- Receive and process public requests for information
- Notify the public of all LEPC meetings or activities
- With the information and reports from facilities operating within the jurisdiction of the LEPC, and analysis of the district's transportation risks; the LEPC will perform a hazard analysis
- Establish and maintain a data base of hazardous chemical locations and quantities in the district
- Establish and maintain a system of data management
- Maintain information on ALL facilities which manufacture, or store, EHSs, and include this information within the response and plan

The LEPC will establish, and notify the public, all meetings, including sub-committee meetings, open to the public. The LEPC will implement such other and related activities as may hereafter be legally required by the federal government, the State, or the County Judge/Parish President. The LEPC will make assessments of resources necessary to implement the emergency response and preparedness plan, and make recommendations to appropriate people, agencies, and organizations regarding additional resources needed to implement the plan.

The LEPC shall be instrumental in fulfilling the purpose of EPCRA to increase community protection from exposure to chemicals produced, used, stored and/or transported within the District. Transportation analysis will include those risks to the district. Transportation analysis will include those risks to the district from commercial transportation by rail, highway, aircraft, and waters of commerce.

A. Public Access to Information

In accordance with Section 324 of EPCRA, all information obtained from an owner or operator pursuant with EPCRA and any requested Tier Two forms or the MSDS otherwise in

possession of the Committee shall be made available to any person submitting a request under this Section.

If the owner should request the location of a specified chemical not be identified, the LEPC shall withhold that information.

All information request to the photocopied by a member of the public, shall be provided at the sole expense of the requestor(s).

The cost of such reproductions shall be set by the Information Coordinator, with the approval of the Executive Committee, at a level which will enable the LEPC to recover all reasonable expenses associated with the processing of the request.

B. Requests for MSDSs and Other Non-Confidential Information

Any person may obtain an MSDS with respect to a specific facility by submitting a written request to the Committee's Information Coordinator.

The facility shall provide the MSDS copy within ten (10) days of a written request. Any person may request any other non-confidential information concerning a facility which may be held by the Committee by submitting a written request to the Committee's information Coordinator.

C. Requests for Tier Two Information

Any person may request Tier Two information with respect to a specific facility by submitting a written request to the committee in accordance with the following requirements:

- (1) If the Committee does not have in its possession the Tier Two information as requested, it shall request a submission of the particular Tier Two form from the owner or operator of the facility subject to the request, provided the request is from a state or local official acting in his or her official capacity or the request is limited to hazardous chemicals stored at the facility in an amount in excess of the threshold planning quantity.
- (2) If the request does not meet the requirements, the Committee may request submission of the Tier Two form from the owner or operator of the facility subject of the request if the request includes a general statement of need.

IV. Membership and Meetings

A. Active Members:

Membership will at all times include, at a minimum, representatives of the groups listed in Section 301 of EPCRA. This includes equal representation of elected officials and local officials; law enforcement, emergency management, fire-fighting personnel, first aid/EMS personnel; health personnel, local environmental personnel; hospital personnel, transportation personnel, broadcast and print media personnel; community groups and owners or operators of local facilities.

The members will be nominated by the Lincoln County Board of Supervisors and will be approved by the SERC. Members shall be residents or conduct business in the jurisdictional area of the LEPC. The membership of the LEPC shall consist of Officers and a staff. The Officers shall consist of a Chair, Vice Chair, Information Coordinator, and a Secretary.

1. The Chair

The Chair shall preside at all meetings of the LEPC unless they cannot be present at an announced meeting. An alternative representative can be named to fulfill the obligation by the existing Chair. The Chair shall service as an ex-officio member of all committees and shall perform such duties and acts as necessary to accomplish the goals of the LEPC. The Chair shall be empowered to create such other ad hoc committees as necessary to accomplish the goals of the LEPC.

2. The Vice-Chair

Upon resignation, death, or by designation of the Chair; the Vice-Chair shall perform the duties of the Chair. The Vice-Chair shall perform other duties assigned by the Chair.

3. The Secretary

The Secretary in cooperation with the Information Coordinator shall be the custodian of all books, papers, documents, and other property of the LEPC.

4. The Information Coordinator

The Lincoln County Board of Supervisors will appoint a Director of Emergency Management who will serve as the Information Coordinator. This person will process requests from the public for information under Section 324, including Tier Two information under Section 312. The Information Coordinator will assist the Secretary in records management. The Information Coordinator will also serve as the Public Information Officer for the LEPC.

B. Inactive Members

Appointed members shall be considered inactive when they have missed more than two (2) consecutive meetings without notification to the Chair of significant reasons why they were unable to attend the meetings.

C. Removal of Members

The LEPC may ask the Lincoln County Board of Supervisors to remove a member.

D. Vacancies

Any vacancy occurring in the LEPC by reason of resignation, death, or disqualification will be filled by appointment of the Lincoln County Board of Supervisors.

E. Meetings

Meetings of the Local Emergency Planning Committee (LEPC) may be called by the Chair or Vice-Chair as deemed necessary. All meetings are open to the public.

1. Regular Meetings

The committee shall meet at least quarterly.

2. Special Meetings

The Chair may call such special meetings as may be deemed necessary to carry out the duties of the Committee. Upon the written request of at least three (3) members, the Chair shall call a meeting with ten (10) days' notice.

3. Hearings

The LEPC shall hold such special meetings as may be deemed necessary, at such time and places as may be determined by a Committee majority vote.

At least one such public hearing, or forum, shall be held each year for the purpose of discussing the Committee's emergency plan with the public, receive and respond to the public for comments of the presented plan.

F. Quorum

A quorum shall consist of a majority of Committee members, excluding those members declared to be inactive. A quorum shall be required to transact business.

G. Agenda

Any member may request the Chair place an item on the meeting agenda. If the Chair should decline to do so, the member may have such item placed on the agenda by submitting it in

writing to the Chair and Information Coordinator with the support signatures of three (3) active members.

H. Notice of Meetings

Notice of time, date, place of meeting, and agenda items to be considered at each meeting shall be given in writing to all members at least one (1) week prior to each meeting by the Information Coordinator and to the Clerk of Lincoln County.

An annual notice of the regular meeting schedule of the LEPC shall be published in a newspaper with regular circulation in Lincoln County in accordance with EPCRA. This notice shall specify the meeting designated specifically for receipt of public comments on the emergency plan.

I. Voting

Each committee member, or designated representative, including the Chair, shall be entitled one vote. No member shall vote by proxy. Members may register their abstention on any vote. The abstention shall be reflected in the minutes. Members are required to abstain on matters which pose a conflict of interest for them. All final actions, committee positions, or policy recommendations or designated representatives present at a duly called meeting.

J. Disqualification

Any member who is unable to attend a meeting may notify the Secretary or Information Coordinator. Any member with five (5) or more absences, excused or unexcused, is subject to disqualification at the request to the Lincoln County Board of Supervisors.