

State Emergency Response Commission (SERC)

Brief for Radioactive and Hazardous Materials Committee

September 20, 2021



Duties and Purposes

Duties and purposes of the SERC are set forth pursuant to

Emergency Planning and Community Right-to-Know Act

Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986
and

Hazardous Chemicals Information Act

Sections 74-4E-1 through 74-4E-9 NMSA 1978

Duties and purposes include:

1. ARA Title III training, grant opportunities, education, technical assistance and outreach activities;
2. Designating local and regional emergency planning districts, appointing and coordinating local and regional emergency planning committees for each district;
3. Establishing policies and procedures for reporting hazardous material inventories and emergency releases from covered facilities, and requests for information from concerned citizens and members of the public;
4. Increasing state and local emergency response capabilities through the opportunity of obligating funds under federal grant opportunities;
5. Providing direction to the Hazardous Materials Safety Board;
6. Reporting annually to the governor and the legislature; and
7. Reporting periodically to the Radioactive and Hazardous Materials Committee

For more information go to

<https://www.nmdhsem.org/new-mexico-state-emergency-response-commission-serc/>

Membership

- Consists of seven members. Representatives from private industry, federal facilities, public health, and public safety.
- Serve staggered terms of four years as determined by the Governor at the time of their initial appointment
- Appointments are made by the Governor
- Designation of Chair is made by the Governor annually
- SERC Membership as of August 16, 2021

Private Industry

Think CSE, Non-government Operations, Ronald Fitzherbert
Edgewater Technical Associates, Project Sub-contractor Technical Representative, Jackie L. Onsurez

Federal Facilities

Los Alamos National Laboratory, Nuclear Physicist and Engineer, Dr. Paul D. Felsher

Public Health

NM Environment Department, Cabinet Secretary, James Kenney
Santa Fe County Fire Department, Chief, Jackie Lindsey (SERC Chair)

Public Safety

NM Department of Public Safety, Cabinet Secretary Designate, James Bowie
NM State Police Department Captain, Mark Rowley

Meetings

- The SERC meets at least two times each year for regularly scheduled meetings
- A quorum is a simple majority (4) and is required to transact business
- Public notice for SERC meetings is in accordance with the Open Meetings Act
 - Legal ads include staff contact information to request the agenda or to request reasonable accommodation
- Participation by members of the public
 - An opportunity is provided at the end of each meeting for members of the public to address the SERC
 - A member of the public can request agenda item two weeks prior to the meeting
- Agenda, minutes, and general information regarding the SERC is available on the DHSEM website for public access

Up-dates coming soon for the SERC web page

<https://www.nmdhsem.org/new-mexico-state-emergency-response-commission-serc/>

Emergency Planning and Community Right-to-Know Act (EPCRA)

- EPCRA is administered by the U.S. Environmental Protection Agency and implemented by the New Mexico Department of Homeland Security and Emergency Management.
- The purpose is to encourage emergency planning efforts at the state and local levels and to increase public access to information about the potential chemical hazards that may exist in their community.
- The four major provisions are Emergency planning, Emergency Release Notification, Hazardous Chemical Storage Reporting (section 311-312), and Toxic Chemical Release Inventory
 - Facilities storing/handling chemicals must meet the requirements of Section 311 and report if a chemical is 500 pounds or more for an Extremely Hazardous Substance
 - All other hazardous chemicals must exceed 10,000 pounds or more for the reporting requirement
 - Safety Data Sheet must be submitted within 90-days after acquisition or change in process
- The data collected is used by the Local Emergency Planning Committees to develop hazardous materials emergency plans to use in responding to and recovering from a release or spill of hazardous or toxic substances.
- All of the chemical data collected, as well as the plans, are available for the general public to review upon request.

More detailed information available at

<https://www.nmdhsem.org/preparedness-bureau/hazmat-program/epcra>

Annual Tier II Reporting

- Submission of a Tier II form is required under EPCRA Section 312
- The purpose is to provide State officials, local officials, and the public with information on general hazard types and locations of hazardous chemicals at a facility
- Reporting is required between January 1 and March 1 for the previous calendar year
- Companies not found in compliance risk fines of up to \$5000 for each finding
- The Tier II inventory form used to report inventories provides the following information for each chemical:
 - chemical name or the common name as indicated on the Safety Data Sheet
 - An estimate (in ranges) of the maximum amount of the chemical present at any time during the preceding calendar year and the average daily amount;
 - A brief description of the manner of storage;
 - An indication of whether the owner elects to withhold location information from disclosure to the public.
- DHSEM Hazardous Materials Coordinator is responsible for collection of TIER II industry reporting data and distribution to Local Emergency Response Committees and first responders

More detailed information available at

<https://www.nmdhsem.org/preparedness-bureau/hazmat-program/tier-2/>

Local Emergency Planning Committees (LEPC)

- The SERC is responsible to create Local Emergency Planning Committees (LEPCs) with representatives of public safety, health care, and local industry.
- Typically, an LEPC has representatives from local fire, law enforcement, medical sector, and private business. Often media representatives also participate.
- In New Mexico, LEPCs are organized by county with some serving more than one county. Currently there are 30 active LEPCs.
- Contacts for each LEPC are found in the 2020 SERC Annual Report (page 7) <https://www.nmdhsem.org/new-mexico-state-emergency-response-commission-serc/>)
- In accordance with EPCRA, LEPCs are required to annually submit an emergency response plan to the SERC. The plans include
 - identification of hazardous chemical storage and transportation;
 - procedures for emergency response;
 - process for public notification; and
 - Procedures for evacuation in the event of accidental release, spill, or other chemical emergency.
- Through planning and routine exercise, these plans are validated.

Hazardous Materials Safety Board and DHSEM Hazardous Materials Coordinator

The SERC provides direction to the Hazardous Materials Safety Board to

- Review the training needs of each responsible agency;
- Establish hazardous materials response training for personnel;
- Maintain records of personnel who have completed this training; and
- Up-date the Hazardous Materials Emergency Response Plan (HMER).
- The Board is comprised of training officers from the State Police, Fire Academy, Department of Health, Department of Transportation, Environment Department, DHSEM, and all applicable local fire departments.

The DHSEM Hazardous Materials Coordinator

- Maintains inventories and data bases relevant to the SERC;
- Documents SERC meetings and tracks follow-up actions;
- Schedules activities as directed by the SERC;
- Prepares and distributes the SERC Annual Report;
- Provides support to the SERC Chair and Committees as requested;
- Attends LEPC meetings to provide guidance for SARA Title III and HMEP activities
- Manages the HMEP Sub-grants;
- Provides training on LEPC functions and Emergency Response Guides;
- Coordinates with DHSEM National Incident Management System Program Manager on 'typing' Hazardous Materials Teams across the State; and
- Coordinates with the DHSEM Training and Exercise Unit to provide opportunities for hazardous materials responders to learn, strengthen, and practice skills

Hazardous Materials Emergency Preparedness Grant (HMEP)

- U.S. Department of Transportation provides the funding for HMEP at an 80% federal and 20% non-federal cost share
- Planning, training, and exercise activities are funded to:
 - Increase effectiveness in safely and efficiently handling hazardous materials incidents;
 - Enhance implementation of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA); and
 - Encourage a comprehensive approach to emergency training and planning by incorporating the unique challenges of responses to transportation situations.
- Hazardous Materials Coordinator salary, benefits, travel, and participation in training/exercises are funded through HMEP
- Examples of activities that can be funded:
 - Planning activities such as Hazardous Materials Plans, commodity flow studies, and similar.
 - Training activities such as HOTZONE, HazMat Challenge, Hazardous Materials certification, Haz Mat Personal Training Equipment.
 - Hazmat exercise activities to test emergency Hazmat plans and similar.
 - Hazardous Materials Coordinator salary, benefits, travel, and participation in training/exercises is funded through HMEP

<https://www.nmdhsem.org/administrative-services-bureau/administrative-services-bureau-grants/hazardous-material-emergency-preparedness-grant-hmep/>

Radioactive Waste Consultation Task Force

(Governor's WIPP Task Force)

- Authorized by the Radioactive and Hazardous Materials Act (Sections 74-4A-2 through 74-4E-9 NMSA 1978)
- The membership is comprised of the Secretaries of
 - Energy, Minerals and Natural Resources Department (EMNRD)
 - Department of Health
 - Environment Department
 - Department of Public Safety
 - Department of Transportation
 - State Fire Marshal
- Each department has designated personnel that serve on the WIPP Working Group to coordinate and implement task force activities.
- The Department of Homeland Security and Emergency Management (DHSEM) is funded through the Cooperative Agreement and the Coordinator participates with the WIPP Working Group.
- The State WIPP Program Coordinator (EMNRD) provides staff support to the Task Force and is the EMNRD Cabinet Secretary's designee on all matters concerning the safe transportation of radioactive waste in New Mexico in addition to fiscal oversight of the program.
- Currently, there is no statutory requirement for coordination with SERC.

SERC Working on Proposed Changes State Statute and Administrative Code

- **Hazardous Chemicals Information Act** (74-4E-7 to 74-4E-9 NMSA 1978)
 - Fund created to deposit Tier II annual fees was repealed 1992. Recommending fund be re-established and roll-over at the end of the Fiscal Year.
 - Reporting fees and fines recommended to be increased to reflect current administrative requirements and to be more consistent with surrounding states' programs
 - Fees and fines structure and schedule recommended to be moved to administrative code.
- **Hazardous Materials Emergency Response Act** (12-12-17 thru 12-12-30 NMSA 1978)
 - This statute was last recompiled in 2005 and needs to be up-dated.
 - Responsibilities of the Department of Public Safety and other responsible agencies during a hazardous materials event are recommended.
 - Repeal of Orphan Material Recovery Fund and transfer of remaining balances to the Hazardous Waste Emergency Fund (Environment Department authority) being recommended.
 - Modifications to responsibilities of the Hazardous Materials Emergency Response Administrator being recommended.
- **Hazardous Materials Emergency Response Plan and Procedures Manual**
(Title 10 Chapter 20 Part 2 NMAC)
 - Last amended in 2001 and does not reflect the statutory changes made in the Hazardous Materials Emergency Response Act. This part of the administrative code is no longer necessary.
 - Repeal 10.20.2 NMAC in its entirety being recommended.

Questions

- How often would RHMC like a presentation from the SERC?
- Suggestions for coordination between the SERC and the Radioactive Waste Consultation Task Force?
- Suggestions for improvements?
- Other?

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