

2023

Kentucky Emergency Response Commission (KERC)

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Kentucky Emergency Response Commission Bylaws

This document is updated according to Kentucky Revised Statutes (KRS) 39E.040(12).

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Adoption History

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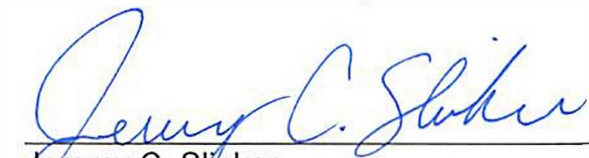
Initially Adopted: May 13, 2015

Updated: November 9, 2021

Updated: March 15, 2023

Ratification Provision

These bylaws are duly updated and adopted by the Kentucky Emergency Response Commission by affirmative vote of a majority of quorum, this the 15th day of March, 2023. This charter is signed and dated by the Chair.



Jeremy C. Slinker
KERC Chair

Date: 03/20/2023

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ARTICLE I. NAME

In accordance with the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 and the Superfund Amendments and Reauthorization Act (SARA) Title III, each state is to have a State Emergency Response Commission (SERC). In Kentucky, this organization is known as the Kentucky Emergency Response Commission, hereinafter referred to as the “KERC.”¹ The KERC has formally been known as the Ky Emergency Response Commission (KyERC) and the Commonwealth Emergency Response Commission (CERC).

ARTICLE II. MISSION

The mission of the KERC is to ensure local, state, and federal hazardous materials planning and preparedness is established, integrated, and mutually supportive. Furthermore, the KERC shall guide community readiness across the Commonwealth by increasing the public’s knowledge and access to information on hazardous chemicals, thereby increasing the ability to plan, prepare, and respond to a chemical release. The mandatory duties of the KERC are as listed in KRS 39E.040.

ARTICLE III. PURPOSES and AUTHORIZATION

The duties and purposes of the KERC are those set forth pursuant to the “Emergency Planning and Community Right-to-Know Act (EPCRA),” Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, the Kentucky Revised Statutes (KRS), Chapter 39E, and Kentucky Administrative Regulations (KAR) 106 KAR Sections 1.081 - 1.131, inclusive, as amended. These duties and purposes include, but are not limited to:

- Implement all provisions of Title III, Public Law Number 99-499, associated federal regulations, and subsequent related legislation and regulations related to hazardous substances
- Develop policies related to the response of state and local agencies to releases of hazardous substances
- Develop standards for planning for these events
- Develop reporting requirements for those who manufacture, use, or store these substances
- Provide information to the public concerning hazardous substances in the community
- Develop training requirements
- Develop requirements for local governments and covered facilities to exercise plans related to hazardous substance response

¹ KRS 39E.010.

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ARTICLE IV. MEMBERSHIP

The Commission shall be composed of not more than twenty (25) members appointed by the Governor for a term of two (2) years. Members of the KERC shall serve until their successors are appointed and qualified and shall be eligible for reappointment.²

Commission Member Expectations

All Commission members are expected to:

- Attend KERC meetings
- Attend training workshops
- Accept appointment to and participate in a KERC committee
- Participate in the KERC planning process to annually define goals and objectives

Commission Representation and Attendance

Members of the KERC will abide by the attendance policy outlined in KRS 39E.030(4).

If unable to attend any meeting, special meeting, or training, a member of the KERC is encouraged to assign a knowledgeable alternate representative who may attend, take notes, and share the events of the meeting with the member of the KERC. Alternate representatives do not have voting rights and do not count toward a quorum.

Members of the KERC who know they will not be able to attend due to a legitimate reason shall provide written notice, via electronic format, to the Chair or their designee, prior to the scheduled meeting. Those who encounter an emergency will contact the Chair or designee, via electronic format, as soon as possible to notify them of reason for absence. Members of the KERC will provide a voice vote to approve excused absences after the roll call of every regular meeting. Those absences not excused will be recorded.³

Commission Member Communications

All members of the KERC have full authority and responsibility to communicate any and all information available at KERC meetings within their represented agency or organization. Formal information releases will be the responsibility of the Chair and will be supported by Kentucky Emergency Management (KYEM) staff.

Removal of Members

Members of the KERC serve at the appointment of the Governor and may be removed by the Governor without cause.

Vacancies

Membership vacancies of the KERC shall be filled by the Governor for the remainder of the unexpired term.⁴

² KRS 39E.030(2).

³ KERC Policy 002-2018.

⁴ KRS 39E.030(4).

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KERC Advisors

The KERC encourages and accepts input from agencies or organizations that have a key stake in the KERC mission. A non-voting advisor is defined as any person not officially appointed to the KERC by an Executive Order signed by the Governor.

Advisors do not:

- Have the right to vote
- Receive travel or per diem reimbursement

Any member of the KERC may recommend for the Commission to vote the appointment of an individual who holds significant expert knowledge in a field relevant to Commission and/or Committee business, as an official KERC “Appointed Advisor.”

ARTICLE V. OFFICERS and DUTIES

Chair The Commission shall be chaired by the Director of the Division of Emergency Management of the Department of Military Affairs, who shall also be a member.⁵

Duties of the KERC Chair The Chair shall recommend an agenda for each meeting, preside at all meetings and hearings of the Commission, preserve order during its meetings, have the authority to appoint committees, and serve as an ex-officio member of all KERC committees. The Chair shall have the duties normally conferred by parliamentary usage of such office and generally perform other duties as may be prescribed in these bylaws. The Chair shall sign all records or documents connected with the work of the KERC requiring such signature, and be responsible for implementing the policies and actions adopted by the KERC. The Chair must:

- Determine that a quorum is present before transacting business
- Introduce all business
- Recognize speakers
- Determine if a motion is in order
- Maintain order
- Put motions to a vote and announce results

Vice Chair The Executive Director of the Department of Military Affairs, shall serve as Vice Chair.⁶

Duties of the Vice Chair The Vice Chair shall serve as meeting Chair during the absence of the Chair.⁷ The Vice Chair shall perform other KERC duties as assigned by the Chair.

⁵ KRS 39E.030(1)(a).

⁶ KRS 39E.030(1)(b).

⁷ KRS 39E.030(1)(b).

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Organizational Structure Organizational structure shall follow the chart in Appendix B until, by majority vote, the Commission determines a change is required to properly fulfill all legal requirements set forth by EPCRA, KRS, and KAR.

ARTICLE VI. MEETINGS

The Commission is required by KRS to meet not less than semi-annually, or as convened by the Chair, Vice Chair, or upon written petition of a majority of commission members to the Chair or Vice Chair.⁸

Open Meetings The formation of KERC policy is public business and shall not be conducted in secret.⁹

Exceptions to Open Meetings All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by the agency, shall be public meetings, open to the public at all times, except as described in KRS 61.810.

- Meetings in which federal or state law specifically require to be conducted in privacy
- Meetings where the purpose of the discussions is to educate the members on specific issues

Closed Sessions Closed Sessions may be scheduled if notice is given in a regular open meeting of the general nature of the business to be discussed in the Closed Session, the reason for the Closed Session, and the specific provision of KRS 61.810 authorizing the Closed Session. Closed Sessions may be held only after a motion is made and carried by a majority vote in an open, public session. No final action, official business, or voting may occur during a Closed Session. No matters may be discussed during a Closed Session other than those publicly announced prior to convening the Closed Session. Closed Sessions are not limited to, but may be restricted to KERC Commissioners, legal counsel, appointed advisors, and support staff.¹⁰

Yearly Meeting Schedule As determined by the members of the KERC, the volume and importance of the KERC workload demands an increase in regularly scheduled meetings. The members of the KERC will, until by majority vote it is determined no longer necessary, meet bi-monthly. Regular meeting dates and locations are at the call of the Chair of the KERC and shall be established for the next calendar year prior to December 31st and published accordingly. All meetings shall be held at specified times and places which are convenient to the public and the schedule of regular meetings shall be made available to the public.¹¹ Meetings of the KERC will also be held via video

⁸ KRS 39E.030(3).

⁹ KRS 61.800.

¹⁰ KRS 39E 61.815.

¹¹ KRS 61.820.

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teleconferencing (VTC) to allow Commissioners and the public to attend virtually per the guidance of the Kentucky Attorney General.¹²

Bi-Monthly Meetings KERC meetings shall be bi-monthly on odd months, specifically January, March, May, July, September, and November.

Meeting Times KERC meeting start times shall be published according to Open Meeting requirements described in KRS 61.820.

Cancellation of a Meeting KERC meetings will be cancelled in accordance with Open Meeting requirements. All meetings will be held on schedule unless undue circumstances exist.

Special Meetings Special meetings will be called in accordance with Open Meeting requirements described in KRS 61.823. Written notice consisting of the date, time, place, and an agenda shall be delivered electronically to every Commissioner as well as each media organization which has filed a written request to receive notice of special meetings, at least twenty-four (24) hours before the special meeting. Discussions and action at the special meeting shall be limited to items listed on the agenda in the notice.¹³

Public Comment Meetings The KERC shall hold public comment meetings as it may deem necessary and desirable at such times and places as it may be determined by a majority vote of the KERC in a regular meeting.

Quorum A quorum shall be required to be present to transact business. The presence of a simple majority of currently appointed members shall constitute a quorum and actions taken at these meetings shall be considered as actions of the full Commission.¹⁴

Order of Succession In the absence of the Chair, the Vice Chair will convene and chair the KERC meeting. In the absence of both the Chair and Vice Chair, the Chair of the Grants Committee will convene and chair the KERC meeting. In the event the Chair, Vice Chair, and Grants Committee Chair are not available, the Chair will reschedule the meeting within 30 days of the scheduled meeting.

Agenda The Chair shall recommend an agenda for each meeting. Any member of the KERC may request the Chair to place an item on the agenda. If the Chair should decline to do so, a member may have such item placed on the agenda by submitting it in writing to the Chair with supporting signatures of three (3) members of the KERC. Any matters not appearing on the agenda may be considered upon a favorable vote of a majority of the members of the KERC present to do so.

¹² *Attorney General Advisory: Changes to the Open Records Act and Open Meetings Act following the 2022 Regular Session of the General Assembly, April 26, 2022.*

¹³ KRS 61.823.

¹⁴ KRS 39E.030(5).

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Non-Member Agenda Requests Any person who is not a member of the KERC and wishes to have an item placed on the regular or special meeting agenda may formally request so to the Chair. Requests must be submitted via electronic format at least two (2) weeks prior to the meeting and include the name, address, group represented, and the subject to be addressed. The Chair may grant, refuse, or direct the request to a KERC committee for review and advising.

Notice of Meeting Notice of the time, place, and draft agenda items to be considered at each meeting shall be given electronically to all members of the KERC prior to all regular meetings. Notice of special meetings and intended agenda items shall be given to all members of the KERC electronically as soon as possible in advance of any special meeting. Public meeting notice shall include a media advisory by the KYEM Public Information Officer (PIO) prior to the meeting. Notice of the meeting shall be posted on the KERC website. If a member of the public or media wishes to address the Commission, they must contact the KERC Chair or designee via electronic format within forty-eight (48) hours of a scheduled meeting and provide their 1) affiliation, 2) topic of discussion, and 3) contact information.

Rules of Order The deliberation of all meetings of the Commission and its various committees shall be governed by *Robert's Rules of Order, Newly Revised*, when not inconsistent with these bylaws, or with special rules of order adopted by the KERC.

Minutes of Meetings Accurate minutes of all KERC meetings shall be maintained by the KYEM support staff and shall include, but not be limited to a record of all KERC actions, a record of attendance at meetings, and a summary of KERC discussions. Minutes shall be open to the public after approval by the members of the KERC at the next meeting of the KERC.¹⁵

Participation of Members of the Public Members of the public shall be encouraged to attend all regular, special, and public comment meetings. The KERC Chair, at their discretion, may recognize an audience member at a meeting and subsequently may allow that person to address the Commission where participation of such person, in the judgment of the Chair, would enhance understanding of the matter under consideration for either the Commission or audience members. The KERC may enter into dialogue with audience members in order to come to a vote on a matter.

Written Material All written material related to the agenda or a matter to be considered by the KERC, shall be available to Commissioners through electronic format.

ARTICLE VII. VOTING

Motions Any matter to be voted on will take the form of a motion. A majority of a quorum of the members of the KERC must vote affirmatively for the adoption of any motion.

¹⁵ KRS 61.835.

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One Vote Each Each Commissioner of the KERC is entitled to one (1) vote. The KERC Chair does not vote except to break a tie.

Proxy Votes No Commissioner shall vote by proxy.¹⁶

Conflict of Interest Members will be familiar with KRS 11A, Executive Branch Code of Ethics, and its regulations.

Abstentions Members may register their abstention on any vote which shall be reflected in the minutes, and members are encouraged to abstain on matters which would pose for them a conflict of interest as described in KRS 11A, Executive Branch Code of Ethics.

Roll Call Votes At the discretion of the Chair or upon call of any member, any KERC action may be taken by a roll call vote, and the vote of each member, abstentions, as well as “yea” or “nay”, shall be recorded and reflected in the minutes.

ARTICLE VIII. DUTIES OF THE COMMISSION¹⁷

Coordination and Supervision of LEPCs The Commission will appoint Local Emergency Planning Committee (LEPC) membership according to the submitted membership lists received by November 30th of each year.¹⁸ Appointments occur annually, at the regularly scheduled January meeting, following approval by the members of the KERC. A determinative letter of appointment, signed by the Chair, will be issued to submitting LEPC Chairs.

The Commission will adopt standards and procedures for the operations of LEPCs. The Commission will issue policy and performance guidelines to LEPCs and monitor the LEPCs’ performance of SARA Title III duties pursuant to that guidance. The Commission will, as often as deemed necessary by the members of the KERC, survey LEPCs to determine aspirations and important deficiencies at the local level.

The Commission will encourage all LEPC Chairs to attend KERC meetings and upon request, within reason and available timeframes, provide an opportunity to voice opinion, concern, and requests for any and all LEPC Chairs. If an LEPC Chair wishes to address the Commission, they must contact the KERC Chair or designee via electronic format within forty-eight (48) hours of a scheduled meeting and provide their 1) affiliation, 2) topic of discussion, and 3) contact information.

The Commission may impose sanctions as appropriate in the event of LEPC non-compliance with such sanctions being determined by majority vote of the Commission.

¹⁶ January 25, 2018 KERC Meeting Minutes, Motion #009-2018.

¹⁷ KRS 39E.040

¹⁸ 106 KAR 1:091 Section 2.(1)(f).

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Develop Tier II Reporting Requirements The Commission shall develop Tier II reporting requirements and procedures consistent with those of SARA Title III, KRS, and for individuals, businesses, and governmental agencies that manufacture, use, or store hazardous substances.¹⁹

Procedure for Reporting EHS Inventories The KEREC will develop a procedure by which facilities may report the presence and inventories of hazardous substances and by which members of the public may obtain these reports. The current reporting system is the online Tier II Manager® program.

Develop Guidance and Standards for EHS Plans The Commission shall develop planning requirements and procedures for extremely hazardous substances (EHS) plans consistent with those of SARA Title III, KRS, and KAR, for LEPCs with respect to facilities that manufacture, use, or store extremely hazardous substances.

Approval of EHS Plans The KEREC Planning Committee will review and approve or disapprove all submitted EHS plans. Where necessary, the Planning Committee shall make recommendations on how to improve disapproved EHS plans. Approved plans will be recommended to the Commission for ratification. A letter signed by the KEREC Chair, following a majority vote of quorum, shall be forwarded to the LEPC Chair announcing approval of the EHS plan.²⁰

Plan Rejection If, in the judgment of the KEREC Planning Committee, the EHS plan is insufficient, the EHS plan shall be returned to the LEPC and the LEPC shall revise the plan for approval by the Planning Committee.²¹

Develop Training Policies The KEREC will develop policies relating to the training of LEPCs and persons subject to respond to releases of hazardous substances. The KEREC will develop and maintain a KEREC approved training list that includes all pre-approved training to which LEPC and KEREC funds can be spent.

Plan Exercise Requirements The KEREC will develop policies relating to exercising and testing of EHS plans developed by LEPCs.

Recommend Administrative Regulations The KEREC will recommend administrative regulations to the Director of KYEM for issuance by the Kentucky Division of Emergency Management to implement provisions of this chapter, consistent with SARA Title III, Public Law Number 99-499.

¹⁹ CERC Policy 004-2013.

²⁰ 106 KAR 1:091.

²¹ KRS 39E.150.

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Receipt of Funds The KERC may receive funds from any source, in accordance with state and federal guidelines, and authorize the expenditure of funds.²²

State 24-hour Warning Point The KERC will specify a warning point to which all required emergency notifications shall be made. The official State 24-hour Warning Point's public statement for spill notification shall be:

“State 24-hour Warning Point for Spill Notification: To report a spill in accordance with SARA Title III Section 304 and KRS 39E.190, contact the KYEM Duty Officer at the State 24-Hour Warning Point at 800-255-2587 which serves as the 24-hour Warning Point and contact for the Kentucky Emergency Response Commission.”

Adopt Policies The KERC will adopt policies for the conduct of the business and duties of the Commission. All policies shall be maintained in electronic format. All policies shall be posted to the KYEM website and electronically delivered to appropriate parties.

KERC Policy and Bylaws Review The KERC shall annually review all policies, procedures, and Bylaws, and update them as necessary.

KERC Policy Review Timeline

- August: KERC staff conducts internal review of policies with findings sent to the Chair stating no changes are needed or which one(s) need to be updated
- September meeting: statement saying policies have been reviewed and no changes recommended or statement of the policy(ies) needing to be updated are presented to Commissioners for review
- November meeting: revised policy(ies) presented for approval

KERC Bylaws Review Timeline

- August: KERC staff conduct internal review of Bylaws with findings sent to the Chair stating no changes are needed or tracked changes version of Bylaws is sent to Chair for review
- September meeting: statement saying no changes needed for Bylaws or tracked changes version of Bylaws is given to Commissioners for review
- November meeting: if needed, revised Bylaws presented for approval

ARTICLE IX. COMMITTEES

Standing Committees The following are standing committees established by the KERC:

- Finance Committee
- Grants Committee
- Information and Training Committee

²² KRS 39E.040(7).

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- Planning Committee
- Policy and Procedure Committee

Special Committees The KERC may establish or dissolve special committees as it deems necessary to accomplish its duties. When a special committee is established, the categories of membership shall also be established and maintained. The Chair or any Commissioner of the KERC may recommend for the Commission to vote the creation of a special committee with specific duties to study special topics. At least one (1) member of the KERC shall be on each special committee. Once these duties have been carried out, the special committee will cease to exist.

Committee Membership Per 106 KAR 1:111, the Grants Committee membership shall consist of not less than five (5) nor more than nine (9) members of the KERC who shall be appointed by the KERC Chairman with approval of the KERC. The Chairman of the Grants Committee shall be elected by the members of the Grants Committee.²³

Members and chairs of the Finance Committee, the Information and Training Committee, the Planning Committee, and the Policy and Procedure Committee shall be appointed by the KERC Chair. Membership on KERC committees, with the exception of the Grants Committee, shall not consist of less than three (3) members.

Duties of Committee Chairs Committee chairs are expected to:

- Schedule bi-monthly committee meetings
- Recommend an agenda for each committee meeting
- Preside over each committee meeting
- Sign all records or documents that require a signature
- Develop and provide committee reports

Duties of Committee Members Committee members shall serve for a term of one (1) year and may be reappointed. Committee members are expected to attend committee meetings. At the direction of the committee's chair, the committee members should be prepared to discuss actions and motions, annually review the activities of the committee, and define goals.

Committee Actions Committee recommendations must, to be adopted, be affirmed as motions by a majority of a quorum of the members of the KERC unless the KERC has specifically delegated approval authority.

One Vote Each Only members of the KERC shall have voting rights within the committee. Each member of a KERC committee is entitled to one (1) vote.

Ex-Officio Member The KERC Chair is an ex-officio member of all KERC committees and is entitled to one (1) vote.

²³106 KAR 1:111, Section 2.

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Liaison/Advisor Members Liaison and advisor members of KERC Committees may not vote.

Committee Meetings Committees shall meet, at a minimum, bi-monthly, pending agenda requirements. Meetings may be held virtually.

Committee Reports The Chair of each standing or special committee shall deliver a report of committee activities as required during regular KERC meetings. Reports and minutes of the KERC meetings shall document the actions, decisions, and participation of committee members.

Committee Duties

Finance Committee

The Finance Committee will:

- Fulfill their committee meeting requirements by meeting prior to a regularly scheduled KERC meeting
- Gather data and information from all committees and KERC staff for three (3) years previous to the current year
- Prepare an annual budget each year to be voted on by the KERC
- The Chair of the Finance Committee will serve as the KERC Treasurer
- For each meeting of the KERC, the treasurer will report on the debits, credits, liabilities, and balance of the KERC account and will provide a hard copy thereto to the members
- The treasurer shall adhere to accounting principles as required by KRS and KAR
- Recommend administrative regulations to the Chair for issuance by the Director of KYEM to implement provisions of this chapter, consistent with Title III, Public Law Number 99-499

Grants Committee

The Grants Committee will:

- Fulfill their committee meeting requirements by meeting prior to a regularly scheduled KERC meeting
- Develop standards and procedures for the operations of LEPCs
- Notify eligible LEPCs of grant funding available, at least 50 percent of the funds collected annually via Tier II Fees, for administration, development, and implementation of the Kentucky EPCRA Program
- Review all grant requests and make recommendations to the KERC for final approval
- Make annual grant awards from funds collected annually via Tier II Fees
- Review LEPCs requests for expenditures not on the current “List of KERC Approved Expenditures for LEPC Grant Funds”
- The KYEM Liaison to the Grants Committee has authority to review and provide initial approval for all expenditures and requests to transfer LEPC funds from one budget category to another as long as the request does not exceed the current

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allocation. The KYEM Liaison will brief all transfers at the next full commission meeting and provide a complete list of requests and decisions to the Grants Committee and the full Commission for final approval

- If supplemental funds are, deemed by the Commission, to be available, the Grants Committee will determine the date of the supplemental allocation award, inform LEPCs of availability, review the supplemental grant requests, and make recommendations to the KEREC for final approval
- Recommend administrative regulations to the Chair for issuance by the Director of KYEM to implement provisions of this chapter, consistent with Title III, Public Law Number 99-499

Information and Training Committee

The Training Committee will:

- Fulfill their committee meeting requirements by meeting prior to a regularly scheduled KEREC meeting
- Develop standards and procedures for the operations of LEPCs
- Submit formal recommendations to the Policy and Procedures Committee for policies relating to the training of LEPCs and persons subject to respond to releases of hazardous substances
- Submit formal recommendations to the Policy and Procedure Committee for policies relating to exercising and testing plans developed by LEPCs
- Develop and maintain a KEREC Approved Training List that includes all pre-approved training to which LEPC and KEREC funds may be spent
- Recommend administrative regulations to the Chair for issuance by the Director of KYEM to implement provisions of this chapter, consistent with Title III, Public Law Number 99-499

Planning Committee

The Planning Committee will:

- Fulfill their committee meeting requirements by meeting prior to a regularly scheduled KEREC meeting
- Develop standards and procedures for the operations of LEPCs
- Develop reporting requirements and procedures consistent with those of Title III, Public Law Number 99-499, for individuals, businesses, and governmental agencies that manufacture, use, or store hazardous substances
- Develop guidance and standards for EHS plans
- Approve, disapprove, and, where necessary, make recommendations to improve EHS plans
- Submit formal recommendations to the Policy and Procedures Committee for policies relating to the training of LEPCs and persons subject to respond to releases of hazardous substances
- Submit formal recommendations to the Policy and Procedures Committee for policies relating to exercising and testing plans developed by LEPCs
- Develop a procedure by which facilities may report the presence and inventories of hazardous substances and by which members of the public may obtain these reports

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- Recommend administrative regulations to the Chair for issuance by the Director of KYEM to implement provisions of this chapter, consistent with Title III, Public Law Number 99-499

Policy and Procedure Committee

The Policy and Procedure Committee will:

- Fulfill their committee meeting requirements by meeting prior to a regularly scheduled KERC meeting
- Develop standards and procedures for the operations of LEPCs
- Lead the campaign to update KRS 39E once every four (4) years or as deemed necessary, and recommend changes to the full Commission. The KERC will sponsor an update at least every four (4) years. Lead the campaign to review 106 KAR Chapter 1.081-1.131 and recommend changes to the full Commission. The KERC will sponsor an update of KAR once every two (2) years or as deemed necessary.
- Review annually all KERC policies and procedures; update as necessary and present to the KERC for vote and approval
- Where appropriate, make determination of the most significant new and updated policies and incorporate into the next KAR update
- Draft policies for the conduct of the business and duties of the KERC
- Develop policies and procedures for the operations of LEPCs
- Develop reporting requirements and procedures consistent with those of SARA Title III, Public Law Number 99-499, for individuals, businesses, and governmental agencies that manufacture, use, or store-hazardous substances
- Develop guidance and standards for EHS plans related to hazardous substances
- Develop policies relating to the training of LEPCs and persons subject to respond to releases of hazardous substances
- Develop policies relating to exercising and testing plans developed by LEPCs
- Recommend administrative regulations to the Chair for issuance by the Director of KYEM to implement provisions of this chapter, consistent with Title III, Public Law Number 99-499

ARTICLE X. COMMISSION SUPPORT STAFF

Support Staff²⁴

KYEM shall provide administrative support to the Commission. Persons employed under this section shall report to the Director or through the approved administrative chain. Other employees of KYEM may also support the commission and assist in the implementation of hazardous substance planning, reporting, investigation, training, and exercising as directed by the Director of KYEM.

KYEM will perform the administrative duties of the KERC. These administrative duties shall include, but not be limited to:

²⁴ KRS 39E.080.

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- Receive, catalog, and organize information required to be submitted to the KERC
- Utilize existing state response organizations, plans, and facilities to the extent possible
- Upon concurrence of the KERC, enter into training exercise agreements with federal response organizations
- Respond to requests to the KERC from the public for information in accordance with Article XII Public Availability in these bylaws
- Perform such preliminary analysis and collect such information as may be required to enable the KERC to fully review local emergency response plans
- Employ such clerical and technical personnel and acquire data management and other equipment and office space as may be necessary

KYEM shall, upon concurrence by the Director, promulgate administrative regulations recommended by the Commission and consistent with Title III, Public Law Number 99-499. The regulations shall include, but not be limited to:

- Substances which require inventory reporting
- Quantities of each substance covered
- Emergency notification procedures and requirements

The Director of KYEM shall designate a KYEM employee to serve as a liaison to each of the standing committees established by the KERC listed in Article IX Committees of these bylaws. Where upon new committees are established by the KERC, the KYEM Director will name an additional liaison. Liaisons will serve as administrative support to the KERC committees, provide technical support, and serve in an advisory capacity only.

Named Support Staff The KERC shall, through the Director of KYEM, retain administrative positions paid through the monies received from the annual Tier II reporting fees collected and grants to assist in the administration of its programs and activities at both the state and local levels. Recommended positions include:

- Tier II Funded Staff
 - KERC Program Manager
 - LEPC Program Coordinator
 - Tier II Manager/EHS Planner
- Other Staff
 - Operations and Planning Branch Manager
 - State Planner
 - Division Finance Officer

Duties of the KERC Program Manager

The KERC Program Manager will:

- Serve as the KYEM Liaison for the Policy and Procedure Committee
- Coordinate activities of the KERC and its committees. Schedule, develop a working agenda, assemble binders, recruit staff, order meals, and prepare meeting space for KERC meetings. Prepare program correspondence, meeting minutes, and policies

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- Track KERC motions; provide updates on accomplishments and status of each motion
- Track KERC Commissioner attendance and provide updates on those not meeting the attendance requirements as outlined in the KERC policies, KRS, KAR, and these bylaws
- Attend KYEM Area Manager and/or local LEPC meetings throughout the year in order to provide guidance on the issues and policies associated with the management and operation of LEPCs throughout the Commonwealth
- Coordinate guidance of KRS, KARs, and recommend policies and procedures to the KERC for the Tier II program
- Request and collect program data, edit, and analyze data and write comprehensive program status reports for the KERC
- Perform in-depth analysis of program support needs and recommend policy and procedural modifications to the KERC Policy and Procedures Committee
- Review all KERC and LEPC training documents and update, where required, web links, points of contact, other perishable information, and publish documents to the KYEM website
- Review quarterly the KERC website and pages, identify issues with those sites/pages, develop a list, and forward to appropriate KYEM IT staff for updating
- Communicate procedural or program changes and meeting schedules to facilities, local committees, and other interested parties
- Respond to programmatic inquiries from the general public, governmental officials, or local jurisdictions
- Update annually the “Responsibilities of the LEPC” training module which includes instructions required to be compliant with Kentucky and EPCRA regulations

Duties of the LEPC Program Coordinator

The LEPC Program Coordinator will:

- Serve as the KYEM Liaison for the Grants Committee
- Provide oversight, coordination, and management support for the statewide KERC Fee Account grant program to support LEPCs
- Manage grant modifications and the tracking of expenditures and account balances
- Coordinate the refinement of the LEPC dashboard and make needed changes. Maintain a list of errors, edits, and omissions needed for the KYEM IT section
- Process program income and expenditures for program audits. Track monthly claims for emergency management program to include coordination of unallowable expenses with KYEM Area Manager offices
- Provide oversight and coordination of activities of the LEPCs
- Prepare program correspondence and communicate program information to LEPCs
- Request and collect program data, edit, and analyze data and write comprehensive program status reports for the KERC
- Perform in-depth analysis of program support needs and recommend policy and procedural modifications to the KERC Policy and Procedures Committee

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- Prepare vendor payments in eMARS
- Maintain program database
- Assist in the development of and processing of administrative regulations for branch programs
- Communicate procedural or program changes to facilities, local committees, and other interested parties
- Attend KYEM Area Manager and/or local LEPC meetings throughout the year in order to provide guidance on the issues and policies associated with the management and operation of LEPCs throughout the Commonwealth
- Respond to programmatic inquiries from the general public, governmental officials, or local jurisdictions
- Update annually the “Responsibilities of the LEPC” training module which includes instructions required to be compliant with Kentucky and EPCRA regulations

Duties of the Tier II Manager/EHS Planner

The Tier II Manager/EHS Planner will:

- Serve as the KYEM Liaison for the Planning Committee
- Develop, implement, and manage the electronic Tier II reporting and fee collection process including liaison with the website program staff
- Update annually the “Responsibilities of the LEPC” training module which includes instructions required to be compliant with Kentucky and EPCRA regulations
- Provide Tier II reporting support to LEPCs and facilities
- Coordinate all administrative functions of the Tier II Program on a statewide basis
- Coordinate guidance of KRS, KARs, and recommend policies and procedures to the KERC for the Tier II program
- Request and collect program data, edit, and analyze data and write comprehensive program status reports for the KERC
- Perform in-depth analysis of program support needs and recommend policy and procedural modifications to the KERC Policy and Procedures Committee
- Review records and reports submitted by facilities for compliance with legal, regulatory, or policy standards
- Review plans submitted by LEPCs for compliance with legal, regulatory, or policy standards
- Review, analyze, and report impact of legislative, financial, or policy changes with respect to the Tier II program
- Communicate procedural or program changes to facilities, local committees, and other interested parties
- Attend KYEM Area Manager and/or local LEPC meetings throughout the year in order to provide guidance on the issues and policies associated with the management and operation of LEPCs throughout the Commonwealth
- Respond to programmatic inquiries from the general public, governmental officials, or local jurisdictions

Duties of the State Planner

- Serve as the KYEM Liaison for the Information and Training Committee

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- Request and collect program data, edit, and analyze data and write comprehensive program status reports for the KERC
- Perform in-depth analysis of program support needs and recommend policy and procedural modifications to the KERC Policy and Procedures Committee
- Communicate procedural or program changes to facilities, local committees, and other interested parties
- Attend KYEM Area Manager and/or local LEPC meetings throughout the year in order to provide guidance on the issues and policies associated with the management and operation of LEPCs throughout the Commonwealth
- Respond to programmatic inquiries from the general public, governmental officials, or local jurisdictions

Duties of the Division Finance Officer

- Serve as the KYEM Liaison for the Finance Committee
- Provide to the Finance Committee data and information on previous years' debits, credits, liabilities, and balances
- Assist the Finance Committee with the preparation of an annual budget
- Prepare financial reports to be presented by the treasurer for each KERC meeting
- Ensure accounting principles are adhered to as required by KRS and KAR

ARTICLE XI. KERC DELIVERABLES

Motions and Reports All motions and reports submitted for consideration by the KERC may be adopted or first referred to an appropriate committee or KERC support staff for review, consideration, and recommendation, if necessary. Committee motions, and reports shall be presented in writing or verbally to the KERC.

KERC Annual Report The KERC Program Manager shall prepare a KERC Annual Report describing Commission activities for the preceding year. The report is to be completed and submitted to the KERC Chair for review and approval. On approval by the Chair, it will be made available to the Commission members for approval. The report shall be made available to the general public upon request in accordance with KRS 61.871 Open Records. The Annual Report will contain minutes for each KERC meeting held within the previous calendar year.

Issuance of Reports and Statements No report or statement shall be released in the name of the KERC unless approved by a majority of a quorum of the KERC.

Legislative Recommendations The KERC may make recommendations to the Governor for new or revised legislation which bears upon the duties and responsibilities of the KERC. Upon request of the Governor, the KERC shall formulate and make recommendation for new or revised legislation.

ARTICLE XII. PUBLIC AVAILABILITY

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Repository of Documents The custodian of records for the KERC is the KYEM Assistant Director of Administration.²⁵

Signed Bylaws Upon adoption by the Commission, a copy of these bylaws will be signed, dated by the Chair and Vice Chair, scanned, and stored electronically in the KYEM files. PDF versions will be available for viewing or download on the KYEM public website.

Open Records The basic policy of KRS 61.870 to 61.884 is that free and open examination of public records is in the public interest and the exceptions provided for by KRS 61.878 or otherwise provided by law shall be strictly construed.²⁶

Requests for Records Responses to requests for records held by the KERC shall be made in compliance with the Kentucky Open Records Act, KRS 61.780 - 61.884.²⁷

Right to Inspection All public records shall be open for inspection by any resident of the Commonwealth, except as otherwise provided by KRS 61.870 to 61.884. Any resident of the Commonwealth shall have the right to inspect public records. To access public records of the KERC, an application must be submitted describing the records to be inspected, include contact information of the applicant, and signed by the applicant with his/her name printed legibly. The application shall be hand delivered, mailed, faxed, or emailed to the KERC.²⁸

The application shall include the following:²⁹

1. The name of the requesting party
2. The mailing or e-mail address of the requesting party, if copies of records are requested
3. Whether the request is for a commercial purpose
4. A description of the documents requested
5. A statement that the person making the request:
 - a. Is a resident of the Commonwealth under KRS 61.870(10); and
 - b. The statement includes the manner in which the requester is a resident of the Commonwealth under KRS 61.870(10)(a) to (f); and
6. The signature of the requesting party.

A person may inspect the public records between the hours of 9:00 a.m. and 2:30 p.m. EST, Monday through Friday, excluding State and Federal holidays; or by receiving copies of the public records through the mail to an applicant whose residence or principal place of business is outside Franklin County, Kentucky. If the applicant requests copies

²⁵KERC Policy 002-2015.

²⁶ KRS 61.871.

²⁷ KRS 61.872.

²⁸ KRS 61.872(1) to (2)(c).

²⁹ KRS 61.876(4)(a) to (f).

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of the records to be mailed, the KERC shall mail the copies upon receipt of all fees and the cost of mailing.³⁰ Public records are available at:

Kentucky Emergency Response Commission
Attn: KERC Chair
Boone National Guard Center
100 Hercules Drive
Frankfort, Kentucky 40601

ARTICLE XIII. AMENDMENTS

These bylaws may be amended or replaced upon the affirmative vote of a majority of the members of the KERC at any regular meeting of the KERC provided that the proposed changes have been circulated to all members two (2) weeks prior to any action thereon.

³⁰ KRS 61.872(3)(a) to (b).

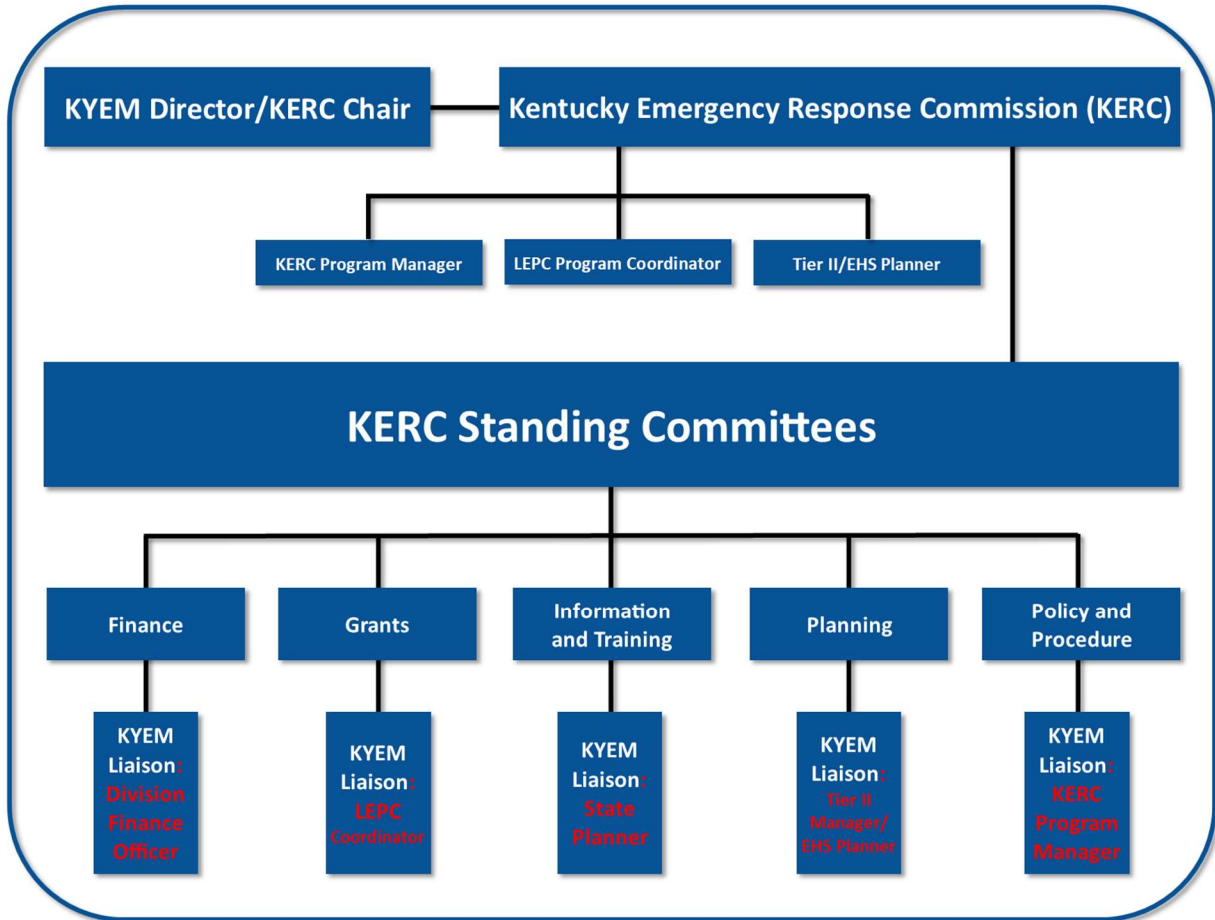
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Appendix A - Acronyms & Definitions

AM	KYEM Area Manager
CERC	Commonwealth Emergency Response Commission
EHS	Extremely Hazardous Substance
EPCRA	Emergency Planning and Community Right-to-Know Act
KAR	Kentucky Administrative Regulations
KERC	Kentucky Emergency Response Commission
KRS	Kentucky Revised Statutes
KYEM	Kentucky Emergency Management
KyERC	Kentucky Emergency Response Commission
LEPC	Local Emergency Planning Committee
PIO	Public Information Officer
Pub. L. No.	Public Law Number
SARA	Superfund Amendments and Reauthorization Act
SERC	State Emergency Response Commission [known in Kentucky as the KERC]
SEOC	State Emergency Operations Center
SWP	State 24-hour Warning Point
Tier II	Emergency and Hazardous Chemical Inventory Forms
Tier II Manager®	Tier II Online Reporting System

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Appendix B - KERC Organizational Chart



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Appendix C - KERC Contact and Web Page Information

Web Pages

Kentucky Emergency Management

<http://kyem.ky.gov>

Kentucky Emergency Response Commission

<https://kyem.ky.gov/programs/Pages/KERC.aspx>

Local Emergency Planning Committee

<https://kyem.ky.gov/programs/Pages/LEPC.aspx>

Tier II Manager System

<https://kyem.ky.gov/programs/Pages/Tier%20II%20Manager%20System.aspx>

Tier II Manager Program

<https://kentucky.hazconnect.com/Account/Login.aspx>

Official Address

Official communications to the KERC shall be addressed to:

Kentucky Emergency Response Commission

Attn: KERC Chair

Boone National Guard Center

100 Hercules Drive

Frankfort, KY 40601

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END OF DOCUMENT