

STATE OF DELAWARE

BYLAWS

OF THE

STATE EMERGENCY RESPONSE COMMISSION

ADOPTED JUNE 9, 1993
LAST AMENDED DECEMBER 14, 2022

ARTICLE I

NAME

This public body shall be known as the Delaware State Emergency Response Commission, hereinafter referred to as "the SERC."

ARTICLE II

MISSION

The mission of the SERC is to protect public health, safety and the environment by ensuring effective and efficient use of resources to plan for the response to incidents involving hazardous and other toxic substances. The SERC shall also ensure citizens are provided emergency and hazardous chemical inventory information upon request in accordance with the state and federal laws which it is charged with implementing. In carrying out this commitment, the SERC shall foster inter-governmental coordination at the local, state, and federal levels.

ARTICLE III

PURPOSES

The duties and activities of the SERC are those set forth in **16 Del. C. ch.63**, which established the SERC and empowers it to implement the requirements of the "Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986," enacted by the U.S. Congress.

ARTICLE IV

MEMBERSHIP

Section 1. Commissioners. Composition of the SERC is established by **29 Del. C. §8226 and 16 Del.C. §6301**. All appointed commissioners may be reappointed at the end of their two-year terms by the Governor who alone may remove them. Commissioners may delegate their duties to designees in accordance with **29 Del.C. §8226**. As used below, the term "commissioner" includes designees.

Section 2. Vacancies. The Governor shall fill any vacancy on the SERC for the remainder of the commissioner's unexpired term, except for the commissioner appointed by the Delaware State Firemen's Association, which will fill that commissioner's vacancy for the remainder of the unexpired term.

ARTICLE V

OFFICERS AND DUTIES

Section 1. *Officers.* The officers of the SERC shall consist of a Chair and Vice Chair.

Section 2. *Named.* The Secretary of the Department of Safety and Homeland Security shall serve as Chair of the SERC. The Director of the Division of Waste and Hazardous Substances of the Department of Natural Resources and Environmental Control, or a designee appointed by the Secretary of the Department of Natural Resources and Environmental Control, shall serve as Vice Chair of the SERC.

Section 3. *Duties of the Chair.* The Chair shall provide an agenda for each meeting, preside at all meetings of the SERC, preserve order during its meetings, appoint special committees, appoint members of standing committees with the approval of the SERC, serve as an ex-officio member of such committees, sign all documents connected with the activities of the SERC requiring such signature, and be responsible for implementing the policies adopted by the SERC.

Section 4. *Duties of the Vice Chair.* In the absence of the Chair or in the event of the Chair's inability or refusal to act, the Vice Chair, unless otherwise determined by the SERC, shall perform the duties of the Chair, and when so acting shall have all the powers of the Chair. The Vice Chair shall exercise such other duties as from time to time may be assigned by the Chair or the SERC.

Section 5. *Presiding Officer.* In the event that both the Chair and the Vice Chair are absent, the remaining members shall elect a presiding officer from the members present. The presiding officer shall serve only for that meeting or until the Chair or Vice Chair arrives.

ARTICLE VI

STAFF

Section 1. *Personnel.* Administrative support for the SERC shall be provided by the Delaware Emergency Management Agency (“DEMA”). The DEMA Director shall appoint an Executive Director to help administer SERC affairs under the direction and oversight of the SERC.

ARTICLE VII

MEETINGS

Section 1. *Regular Meetings.* The SERC shall conduct meetings four (4) times a year. Meeting dates will be scheduled as follows unless the day falls on a holiday in which case the meeting will be held on the next business day or as scheduled by the Chair:

- (1) Second Wednesday of March;
- (2) Second Wednesday of June;

- (3) Second Wednesday of September; and
- (4) Second Wednesday of December.

Meetings will be held at a time and location determined by the Chair. In the event a meeting is cancelled, it will be rescheduled by the Chair and convened within thirty days of the cancelled meeting.

Section 2. *Special Meetings.* The Chair may convene special meetings, as deemed necessary to carry out the duties of the SERC, in accordance with **29 Del.C. §10004 (e)(3)**. Upon the written request to the Chair of at least four (4) commissioners, a special meeting will be convened. Virtual special meetings may be conducted if necessary, in accordance with **29 Del. C. § 10006A**.

Section 3. *Quorum.* A quorum of the SERC means eleven (11) commissioners. The presence of a quorum is necessary for the SERC to conduct its affairs.

Section 4. *Notice of Meetings.* Notice of the time, place and agenda to be considered at each SERC meeting shall be made in accordance with **29 Del.C. §10004 (e)(2-5)**.

Section 5. *Submission of Written Material.* All written material related to a matter to be considered by the SERC shall be available to commissioners by computer at least five (5) business days before a regular meeting and one (1) business day before a special meeting, or unless otherwise specified by the SERC. *See* Article X, Section 5.

Section 6. *Minutes of Meetings.* Minutes of all SERC meetings shall be maintained by the SERC in accordance with **29 Del.C. § 10004 (f)**.

Section 7. *Participation by Members of the Public.* Members of the public are entitled to attend all SERC meetings, both regular and special. An opportunity will be provided at each SERC meeting for members of the public to briefly address the commissioners on topics listed on the agenda.

ARTICLE VIII

VOTING

Section 1. *One Vote Each.* Each commissioner has one vote. The Chair shall have no vote except to break a tie. The Vice Chair or Presiding Officer remains entitled to vote even when serving as Chair.

Section 2. *Abstentions.* Commissioners, or their designees, must abstain from voting on matters as to which they have a conflict of interest or that could constitute a violation of the *State Employees', Officers' and Officials' Code of Conduct*. *See* **29 Del.C. § 5805**. Such abstentions from voting will be recorded in the minutes of the meeting.

ARTICLE IX

COMMITTEES

Section 1. *Standing Committees.* The following committees shall be standing committees of the SERC: Finance and Budget Committee, Information and Technology Committee, Planning and Training Committee, Decontamination Trailer Committee, and LEPC Oversight Committee. Term of office for Committee Chairs will be for a period of one year. Renewal of term or replacement of Committee Chair will be at the discretion of the SERC by majority vote.

Section 2. *Special Committees.* When deemed necessary to carry out SERC work, the SERC Chair may appoint a special committee with specific duties. Once these duties of a special committee have been carried out, that committee will cease to exist.

Section 3. *Membership of Committees.* The SERC Chair will appoint each standing committee chair and committee members with SERC approval. Each standing committee shall be chaired by a voting member of the SERC. Each special committee shall be appointed by the SERC Chair.

Section 4. *Committee Reports.* Each standing committee and special committee shall deliver a report of that committee's activities during each regular SERC meeting.

Section 5. *Committee Meetings/Actions.* As public bodies, all committee meetings are subject to Delaware's Open Meeting Law requirements and committees can not act without the approval of the SERC unless the SERC has specifically delegated approval authority to them.

ARTICLE X

REPORTS AND RECOMMENDATIONS

Section 1. *Resolutions.* All resolutions submitted for consideration by the SERC may be adopted or first referred to an appropriate committee for review, consideration and its recommendation if necessary.

Section 2. *Annual Report.* The SERC will publish an annual report of its activities, based on the fiscal year (July 1 – June 30), on or about October 1st. A draft of the annual report will be circulated to the commissioners for review at least ten (10) business days prior to its approval by the SERC at a regular meeting. Upon approval by the SERC, the annual report shall be transmitted by the Chair to the Governor and then made available to other state and local agencies, including the Local Emergency Planning Committees. The annual report shall be made available to the general public upon request.

Section 3. *Issuance of Reports & Statements.* No report or statement shall be released in the name of the SERC unless it has been approved by a majority of a quorum of the SERC in accordance with Article VII, Section 3.

Section 4. *Legislative Recommendations.* The SERC may make recommendations to the Secretary of the Department of Safety and Homeland Security concerning legislation that bears upon the duties and responsibilities of the SERC. Such recommendations shall not be considered as authorized by the SERC unless they are approved by 16 of the commissioners at a meeting and following a period of review of not less than ten (10) business days.

ARTICLE XI AMENDMENTS

Section 1. *Amendments.* These bylaws may be amended or repealed upon the affirmative vote of 16 of the commissioners of the SERC at any meeting of the SERC provided that any proposed changes have been made available to all commissioners for review not less than ten (10) business days prior to any action thereon.

*Approved by majority vote by SERC Commissioners
at the December 14, 2022 SERC Quarterly Meeting*

*For Questions, contact:
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