

# Chapter 1. EPCRA Section 301: Establishment of State Commissions, Planning Districts, and Local Committees

EPCRA 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 states to establish certain organizations. These organizations and their responsibilities are provided in Section 301 of the law.

*Note: Provisions from the EPCRA statute are provided in text boxes throughout this document.*

## 1.1 State Emergency Response Commissions

### ***EPCRA Section 301(a): Establishment of State emergency response commissions***

*Not later than six months after October 17, 1986, the Governor of each State shall appoint a State emergency response commission. The Governor may designate as the State emergency response commission one or more existing emergency response organizations that are State-sponsored or appointed. The Governor shall, to the extent practicable, appoint persons to the State emergency response commission who have technical expertise in the emergency response field. The State emergency response commission shall appoint local emergency planning committees under subsection (c) and shall supervise and coordinate the activities of such committees. The State emergency response commission shall establish procedures for receiving and processing requests from the public for information under section 324 of this title, including tier II information under section 312 of this title. Such procedures shall include the designation of an official to serve as coordinator for information. If the Governor of any State does not designate a State emergency response commission within such period, the Governor shall operate as the State emergency response commission until the Governor makes such designation.*

As required, the state emergency response commission (SERC) was established for each state by the governor in an executive order or by state law. The SERC then established local emergency planning districts and a local emergency planning committee (LEPC) for each district.

Section 301 states that the governor may choose an existing state organization as the SERC and must appoint persons who have technical expertise in the emergency response field. As required by the law, SERCs were established within months after the law was passed.

Some states formed SERCs from existing organizations, such as state environmental, emergency management, transportation, or public health agencies. In others, they were new organizations with representatives from public agencies and departments, along with various private groups and associations.

## 1.2 Tribal Emergency Response Commissions (TERCs)

All federally-recognized tribes have the same responsibilities as states for implementing EPCRA. A final rule on July 26, 1990 (55 FR 30632), designated tribes as the implementing authority for EPCRA on all lands in Indian Country.

The chief executive of the tribe, typically a president or chairman, is responsible for the same functions as the state governor under EPCRA Section 301, including the appointment of an emergency response commission of the tribe, designation of local emergency planning districts, and the appointment of an emergency planning committee for each district. That person acts as the TERC if one has not been established or a cooperative agreement is not developed to authorize the state to implement EPCRA.

If a tribe is not prepared to undertake the EPCRA program, a cooperative agreement may be developed to authorize the state to implement EPCRA in tribal region. Alternatively, a tribe may choose to enter into a cooperative agreement with another tribe or a consortium of tribes in which its lands are located.

## 1.3 SERC and TERC Responsibilities

Section 301(a) to (c) describes SERCs' responsibilities. (*See text box above for legislative language in Section 301(a) and below for Section 301(b) and (c).*) While not specifically stated in the statute, TERCs have the same responsibilities as SERCs.

- Establish local emergency planning districts.
- Appoint LEPCs and TEPCs.
- Supervise and coordinate the activities of the LEPCs/TEPCs in their state or tribe.
- Establish procedures for receiving and processing requests from the public for information listed in Section 324, including Tier II<sup>6</sup> information collected under Section 312, as well as emergency response plans. Chapter 8 discusses requirements under EPCRA Section 324.

Each of these responsibilities is explained below.

### Establishment of Local Emergency Planning Districts

#### ***EPCRA Section 301(b): Establishment of emergency planning districts***

*Not later than nine months after October 17, 1986, the State emergency response commission shall designate emergency planning districts in order to facilitate preparation and implementation of emergency plans. Where appropriate, the State emergency response commission may designate existing political subdivisions or multijurisdictional planning organizations as such districts. In emergency planning areas that involve more than one State, the State emergency response commissions of all potentially affected States may designate*

<sup>6</sup> Tier II information is submitted by facilities under EPCRA Section 312, hazardous chemical inventory reporting requirements, which will be covered in Chapter 5 of this document.

*emergency planning districts and local emergency planning committees by agreement. In making such designation, the State emergency response commission shall indicate which facilities subject to the requirements of this subchapter are within such emergency planning district.*

Within nine months after the law was passed, EPCRA Section 301(b) required SERCs to designate emergency planning districts to facilitate preparation and implementation of emergency plans, generally by existing political subdivisions, counties or townships.

Section 301(b) also states that if emergency planning areas involve more than one state, SERCs of all potentially affected states may designate emergency planning districts and LEPCs by agreement. If such designations are made, SERCs should indicate which facilities would be within the emergency planning district.

TERCs are also responsible for designating emergency planning districts and naming the facilities that would be included within each planning district. If TERCs are not established, the chief executive of the tribe may reach out to the SERC to establish a cooperative agreement with the state to implement EPCRA in the tribal region. The tribe may enter into an agreement with the state to implement certain provisions of EPCRA or for full implementation.

As required, local emergency planning districts were established in each state within the time provided in the statute.

### **Appoint LEPCs and TEPCs**

#### ***EPCRA Section 301(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, representatives 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 324 of this title, including tier II information under section 312 of this title. Such procedures shall include the designation of an official to serve as coordinator for information.*

***EPCRA Section 301(d): Revisions***

*A State emergency response commission may revise its designations and appointments under subsections (b) and (c) as it deems appropriate. Interested persons may petition the State emergency response commission to modify the membership of a local emergency planning committee.*

Within 30 days after the designation of the emergency planning districts, Section 301(c) requires SERCs and TERCs to appoint members of an LEPC or TEPC for each emergency planning district.

Section 301(d) allows SERCs and TERCs to revise the designation of emergency planning districts and LEPCs and TEPCs as necessary for each community. Any person may petition the SERC or TERC to modify the membership of an LEPC or TEPC. (See text box provided below for legislative language of EPCRA Section 301(c) and (d)).

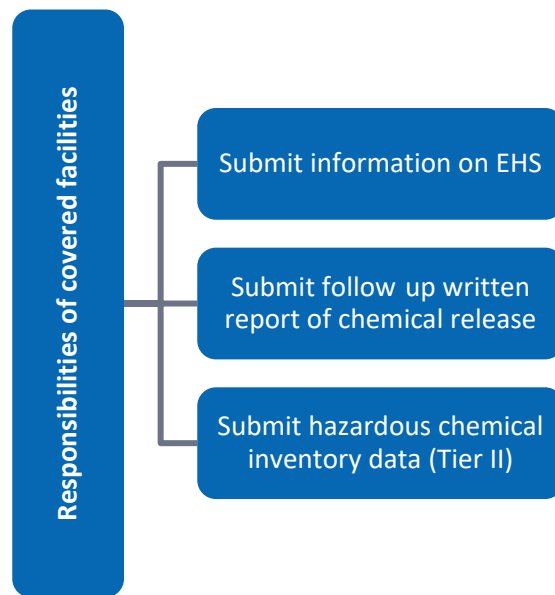
**Supervise and Coordinate the Activities of the LEPCs and TEPCs**

SERCs and TERCs should assist their LEPCs and TEPCs to meet their responsibilities, as prescribed in the EPCRA statute, to protect their communities from chemical accidents. In addition, states and tribes may have their own requirements for community preparedness, including all-hazard planning. EPA encourages SERCs and TERCs to provide proper direction for LEPCs and TEPCs to meet these requirements. You may develop guidance, attend LEPC (or TEPC) meetings regularly, assist in conducting exercises to implement the emergency response plan, assist in explaining potential risks to the community, etc. In addition, SERCs and TERCs should develop guidance or fact sheets to inform LEPCs and TEPCs of any new statutory requirements, regulations or policies set by the state, and EPA and other federal agencies’ regulations that may apply to them and to the regulated facilities in their community.

**Establish Procedures for Receiving and Processing Requests from the Public for Information**

EPCRA requires facilities to submit information on the presence and releases of extremely hazardous substances, releases of hazardous substances listed under CERCLA, and the inventory of hazardous chemicals. EPCRA also requires facilities to provide follow-up written reports of any chemical releases. See Figure 4.

SERCs and TERCs are required to make information submitted by facilities noted in Figure 4 available to the public as provided in EPCRA Section 324. (See Chapter 8 for more



**Figure 4. Reports submitted by EPCRA facilities.** (See Chapter 2, Chapter 4, and Chapter 5 for more details.)

*details.*) To meet this requirement, SERCs and TERCs should establish procedures for public requests, which may include setting up reading rooms, hours of operation, charges for copying information, etc.

As prescribed in EPCRA Section 301(a) (see statutory text provided in section 1.1 of this chapter), SERCs and TERCs should also designate an official to be the information coordinator, to collect information submitted by facilities under EPCRA and to disseminate information requested by the public.

## **1.4 Establishment of LEPCs and TEPCs**

As required by EPCRA Section 301(c) (*see statutory text provided in section 1.3 of this chapter*), within 10 months after the law was passed, SERCs nationwide established approximately 3,500 LEPCs. As mentioned earlier in this chapter, for tribes that may not have the resources to implement EPCRA—including establishing a TEPC for each district—tribal representatives may join neighboring LEPCs to coordinate emergency planning and response to protect citizens in their community. EPA is aware that few tribes are already part of their neighboring LEPC. EPA encourages other tribes to join neighboring LEPCs or form TERCs and TEPCs to implement EPCRA.

Section 301(c) specifies that each LEPC and TEPC organization should include, at a minimum, representatives from each of the following groups:

<b>State/Local Officials</b>	Commissioner, sheriff, county clerk, attorney, mayor, state representative, state emergency management or environmental agency official
<b>Law Enforcement</b>	Police officers, police chief, sheriff, deputies
<b>First Responders</b>	Fire chief, firefighters
<b>Emergency Management</b>	Emergency preparedness coordinator, emergency coordinators for businesses
<b>Health</b>	County health department, doctors, mental health hospital, hospital administrator/director, poison control center
<b>Broadcast/Communications Media</b>	Newspaper, website developers, public information, RACES, ham radio clubs, local weather reporters
<b>Print Media</b>	Daily or weekly newspaper editors, reporters, trade journal editors/reporters
<b>Emergency Medical Services</b>	Director of county ambulance, EMS technicians
<b>Transportation</b>	Highway department, school bus director, airport authority, trucking company, transit
<b>Local Environmental Groups</b>	County extension office, Environmental Groups (ex: Sierra Club, conservation groups, Audubon Society), school environmental program director
<b>Community Groups</b>	Red Cross, Salvation Army, special needs groups, Animal Shelters, Ministerial Alliance, Chamber of Commerce, Garden Club, Rotary Club, Kiwanis, Lion's Club; groups focused on environmental justice issues
<b>Facility Owners/Operators</b>	Any representative from a facility using/storing hazardous materials within your county
<b>Other</b>	Residents, home-owners association, ministers, school administrators, science teachers

**Figure 5. Representatives of LEPC (or TEPC) organizations.**

While EPCRA Section 301(c) specifies that each LEPC and TEPC organization should include representatives from each of these groups, EPA recognizes that this is not possible in all communities. Check with your SERC and TERC for guidance on building membership.

EPCRA Section 301(c) also specifies how an LEPC or TEPC should function as an organization:

- Appoint a chairperson for the committee.
- Establish committee rules, including:
  - 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.
- Establish procedures for receiving and processing requests from the public for information listed under Section 324, including Tier II information collected under Section 312.
- Designate an official to serve as coordinator for information, which includes receiving EPCRA reports from facilities and to disseminate information requested by the public.

The procedures for processing requests from the public can be similar to the SERCs' and TERCs' described above.

## **1.5 LEPC and TEPC Primary Responsibilities**

Under EPCRA, the LEPC's and TEPC's main responsibility is to develop an emergency response plan to prepare and protect the community and emergency responders from chemical accidents. In addition, LEPCs and TEPCs have other responsibilities, directed by their states and federal agencies, to develop community preparedness plans for all hazards, which may include planning and responding to natural hazards (e.g., tornadoes, hurricanes, flooding), including pandemics. LEPCs and TEPCs should reach out to SERC or TERC for assistance and guidance in meeting these additional responsibilities.

EPCRA expressly intends that the LEPCs and TEPC serve as a focal point in the community for information and discussion about hazardous chemical emergency planning and health and environmental risks. They also play a key role in effective all-hazard planning.

The community preparedness process followed today by most state, tribal, and local agencies is:

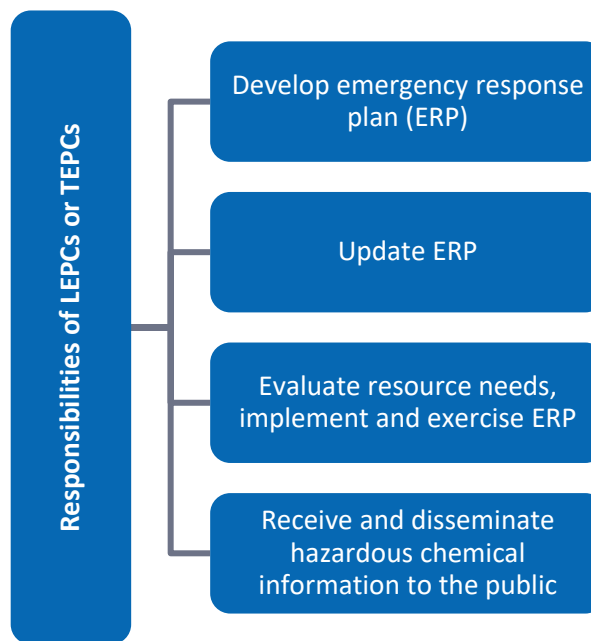
- Identify the hazards in a community
- Identify the community's capability for addressing the hazards
  - The "community" includes all community members, not just emergency response agencies.
  - "Capability" includes awareness of the hazards and the degree to which all community members are prepared to take action to protect themselves, families and property.

Gaps in "capabilities" will often be obvious, and it is the function of these agencies to strategically plan to fill these gaps in order to improve community preparedness.



EPCRA Sections 301 and 303 provide the following responsibilities for LEPCs and TEPCs:

- Appoint a chairperson for the committee.
- Establish rules by which the committee shall function.
- Develop an emergency response plan for their community.
- Update the emergency response plan at least once a year, or more frequently as changes occur in the community.
- Evaluate the need for resources necessary to develop, implement and exercise the emergency plan.
- Establish procedures for receiving reports from facilities in the community.
- Establish procedures for processing requests from the public for EPCRA reports, emergency response plan, etc.



**Figure 6. Primary responsibilities of LEPCs and TEPCs.**

Details of LEPC and TEPC responsibilities under EPCRA Section 303 are provided in Chapter 3, as well as in Part II of this document.

## **1.6 State and Tribal EPCRA Programs**

States and tribes are given the flexibility to implement the EPCRA program as necessary for their community, provided that at least minimum federal requirements are met. EPA is aware that some communities may not have any facilities that handle hazardous chemicals and that an LEPC or TEPC may be composed of one or two representatives from first-response organizations. If your community is lacking resources or technical expertise in planning for chemical emergencies, EPA encourages you to reach out to your state (or tribal) emergency management agency or EPA EPCRA Regional Coordinators.

Here is the contact information for EPA EPCRA Regional Coordinators:

<https://www.epa.gov/epcra/epcra-regional-contacts>.