

THE ROLE OF THE STATE EMERGENCY RESPONSE COMMISSION (SERC) UNDER EPCRA

The Emergency Planning and Community Right to Know Act of 1986 (EPCRA) is unique among federal environmental laws in that Congress specifically requires state and local governmental organizations to administer the majority of the law by receiving reports and notifications, planning for emergencies, and by providing the public with access to submitted information. In order to achieve these objectives, Sections 301 and 303 of EPCRA mandate the creation of two organizations: the State Emergency Response Commission (SERC), and the Local Emergency Planning Committee (LEPC). EPCRA also requires facilities to send certain reports and notifications to existing local fire departments.

STATE EMERGENCY RESPONSE COMMISSION

EPCRA required each state governor to appoint a State Emergency Response Commission by April 17, 1987. All 50 states and territories/possessions have SERCs.

The law does not specify a minimum size for SERCs, nor does it describe in detail the qualifications of SERC members. Thus, the membership of SERCs varies considerably and is often dictated by executive order or state legislation. South Carolina Executive Order 87-17, signed by former Governor Campbell established the SERC for South Carolina. This executive order was rescinded and replaced by South Carolina Executive Order 93-27, signed by former Governor Campbell. Executive Order 93-27 was rescinded and replaced by South Carolina Executive Order 2001-41, signed by former Governor Hodges. The SERC includes members of state agencies and local industry.

On Indian lands, the chief executive officer of the tribe, rather than the state governor, has the authority to appoint a SERC for tribal lands. This tribal commission is responsible for carrying out all the duties of the SERC.

The SERC is responsible for dividing the state into emergency planning districts to facilitate preparation and implementation of emergency plans. A planning district may consist of existing political subdivisions (counties) or multi-jurisdictional areas (metropolitan areas). Most SERCs (35 states) have designated counties as the basic planning district. South Carolina is one of the 35 states that have mandated that each county will have a LEPC. However, the SERC in 2002 voted to allow neighboring counties to form multi-county LEPCs in South Carolina.

DUTIES OF THE SERC

The four main duties of the SERC under EPCRA are: 1.) To appoint, supervise and coordinate the activities of each LEPC; 2.) To receive certain reports and notifications required by EPCRA; 3.) To make facility reports and notifications available to the public; and 4.) To annually review local emergency response plans prepared by LEPCs.

By its explicit terms, EPCRA does not pre-empt state or local law. Therefore, there is nothing in EPCRA that prevents SERCs or LEPCs from promulgating their own rules under state or local law that impose more stringent reporting requirements than are required under EPCRA. For example, a SERC may, under state law, require owners and operators of regulated facilities to submit detailed site maps indicating where the chemicals and substances are located, even if such a map is not required under EPCRA.

The minimum duties that a SERC must perform under EPCRA are:

With respect to LEPCs:

- Designate local emergency planning districts within the state.
- Appoint a LEPC for each planning district
- Supervise and coordinate the activities of each LEPC
- Annually review the local emergency plans developed by each LEPC
- Coordinate proposals for distribution of training grant funds.

With respect to the regulated community:

- Receive initial emergency planning notifications (Section 302).
- Receive Emergency Releases Notifications (Section 304)
- Receive Material Safety Data Sheets (MSDS) or a list of MSDS chemicals (Section 311)
- Receive the annual Emergency and Hazardous Chemical Inventory of MSDS chemicals (Section 312)
- Receive the Annual Toxic Chemical Release Inventory report (Section 313) if designated.
- Take enforcement action against facility owners/operators who fail to comply with notification and reporting requirements.
- Designate additional facilities as subject to the Emergency Planning Notification provisions of the law (Section 302).

With respect to the public:

- Establish procedures for receiving and processing public requests for information collected by the SERC under EPCRA.
- Appoint an information coordinator to supervise distribution of collected information to the public.

Request information from EPA on the health effects of chemicals that EPA has agreed to designate “Trade Secret”, and ensure that this information is available to the public.

With respect to EPA:

Notify EPA of all facilities in the state that have submitted an Emergency Planning Notification (Section 302) or have been designated as subject to the emergency planning process by the SERC or the governor.

The South Carolina SERC

The SERC in South Carolina is composed of twelve members of whom three are from industry across the state, three at-large members, and six from state government. The state agencies represented are the Governor’s Office, SCDHEC, SLED, Labor, Licensing, and Regulation (State Fire Marshal), Department of Public Safety, and SC Emergency Management Division (SERC Chairman). The SERC or SERC Coordinator may be contacted at:

State Emergency Response Commission

2779 Fish Hatchery Road
West Columbia, S.C. 29172
Telephone: 803-737-8500
Fax: 803-737-8570

SERC duties mentioned above have been divided among agencies as follows:

South Carolina Emergency Management Division (SCEMD): Responsible for SERC Chairmanship, preparation of the State Hazardous Materials Emergency Response plan, providing response planning support to LEPCs, review and approval of LEPC Hazardous Materials Response plans, coordinating proposals for distribution of training and LEPC planning grant funds, coordinating SERC meetings, repository for LEPC membership listings, and SERC meeting minutes. Additionally, SCEMD, through the Hazardous Materials Program Manager, manages several Hazardous Materials Grant programs which directly benefit LEPCs, conducts periodic LEPC workshops, and conducts individual LEPC training / outreach sessions.

South Carolina Department of Health and Environmental Control (SCDHEC): SERC Vice-Chairman, all EPCRA responsibilities concerning facility reporting, MSDS listings and reporting databases, enforcement actions, public requests for state level release of reported EPCRA information, and all notifications to EPA. SC DHEC has been designated the EPCRA reporting point for South Carolina and all facilities subject to EPCRA requirements must submit reports to:

DHEC

EPCRA Reporting Point
2600 Bull Street
Columbia, S.C. 29201
Telephone: 803-898-3894

DHEC also maintains a 24-hour/seven day per week spill hotline for reporting emergency releases. Call either 888-481-0125 (toll free) or 803-253-6488 (Columbia area) to report an emergency.

Finally, SCDHEC also maintains a 24 hour/seven day hazardous materials emergency response capability which may be requested by contacting DHEC at the above listed telephone numbers.