

Additional FAQs for Surveyors  
Emergency Preparedness Requirements

1. If a surveyor finds a facility to not have an emergency preparedness program, should the surveyor cite Tag E-0001 or should the surveyor cite all applicable tags to the provider/supplier?

**Answer:** The surveyor should cite E-0001 which cites the entire condition for participation, condition for coverage or requirement for LTC. The Emergency Preparedness Program is the condition. We would expect that the surveyor provides specific feedback in citing E-0001, when citing the condition, in the surveyor notes which would allow for a facility to clearly understand what is required to come into compliance. For instance, reference the fact the facility doesn't have policies and procedures, etc.

For example:

CCN	Facility Name	State	Survey Type	Survey Date	Tag	CFR	Survey Cited Cited On
XXXX	ABC Facility	AL	Re-Certification LSC Survey	xx/xx/2018	0001	.	1
2567 Statement of Deficiency Text							
Based on review of documentation and interview, the facility failed to maintain the comprehensive emergency preparedness program per the requirements of:							
42 CFR 483.73(a)							
During a tour of the facility from 11:15 am to 3:30 pm, the <b>facility failed to provide any documentation on their emergency preparedness program including procedures and policies, training and testing.</b>							
A member of maintenance staff and administrative staff were present when this deficiency was identified.							

2. What is the difference between E-0001 and E-0004?

**Answer:** If a facility does not have an Emergency PROGRAM- it should be cited at E-0001. If the facility does not have an Emergency PLAN (i.e. risk assessment, and all elements under (a)) then it would be cited at E-0004.

**E-0001** is: The [facility, except for Transplant Center] must comply with all applicable Federal, State and local emergency preparedness requirements. The [facility] must **establish and maintain a [comprehensive] emergency preparedness program** that meets the requirements of this section

**E-0004** is: The [facility] must comply with all applicable Federal, State and local emergency preparedness requirements. The [facility] must develop establish and maintain a comprehensive emergency preparedness program that meets the requirements of this section (utilizing an all-hazards approach)

The emergency preparedness program must include, but not be limited to, the following elements:

**(a) Emergency Plan.** The [facility] must develop and maintain an emergency preparedness plan that must be [reviewed], and updated at least annually.

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### 3. What are the Emergency Preparedness core elements?

**Answer:** The Core elements in this Emergency Preparedness Program (E-0001) are as follows:

- E-0004 The Emergency Plan
- E-0013 Policies and Procedures
- E-0029 Communication Plan
- E-0036 Training and Testing

**These core elements are the standards/requirements**, also can be considered the individual tags which comprise the core elements. For purposes of this FAQ and EP terminology, we will consider the core elements as “sub-standards”. Under these are additional requirements which can be considered “sub-standards”. For instance E-0004 Emergency Plan is (a); under (a) we also have (a)(1), (2), (3), etc. which are different tags and “sub-standards”.

### 4. If a surveyor finds the facility has two or more “sub standards”, for instance, the facility has the majority of Policies and Procedures at E-0013, but is missing the “sub-standard” for a policy and procedure on the safe evacuation (E-0018) and missing the sub-standard” for a policy and procedure on a means to shelter in place for patients, staff, and volunteers (E-0022), should the surveyor cite only the “sub-standards” or should the surveyor cite E-0013?

**Answer:** Surveyors should be citing the facility under E-0018 and E-0022. There is no need to cite E-0013 at a standard level. Surveyors need to use their surveyor skills and discretion in making citations. For instance, if there are 20 sub-standards under one standard/core element and the facility is not compliant with 19 of the 20 substandard, surveyors are expected to use their judgment in citing.

### 5. How and where would a facility be cited for the complete omission of an emergency preparedness plan or one of the core standards/elements?

**Answer:** If a facility has no emergency preparedness plan (note- not program), **E-0004** would be cited at the Condition level (NLTC) or as a F level deficiency (LTC). If the facility had an emergency preparedness plan, but was missing certain elements of the plan, then the surveyor would cite standard level compliance at the relevant tag for the substandard.

### 6. Can you provide an examples of how to cite the emergency preparedness rule?

**Two Examples:**

#1: The facility's emergency preparedness program does not contain a communication plan. In this instance, the surveyor would cite standard or condition level (based on surveyor discretion per above) for non-compliance at tag E-0029. Since the facility did not have a communication plan, condition level could be warranted or acceptable. However, if the facility had a communication plan but the plan was missing some of the required “sub-standards”, then surveyors could cite standard level non-compliance for the relevant tags under the communication plan standard, such as E-0030, E-0031, E-0032.

#2: The facility has a communication plan where certain sub-standards are missing or inadequate (for example E-0031 and E-0033). The surveyor would cite these standards. However, the surveyor should not cite E-0001 the Emergency Program only due to the fact that the facility has missing sub-standards.

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Emergency Preparedness Requirements

**7. What are the considerations related to implementable plan versus evaluating effectiveness?**

**Answer:** Surveyors are not expected to nor can they determine the effectiveness of a facility's emergency plan.

**8. Tag E-0026 and the 1135 Waivers. What am I (surveyor) looking for?**

**Answer:** For 1135 Waivers and the requirement under E-0026, facilities are to demonstrate in writing a policy/procedure which addresses their general awareness of the 1135 Waiver Process. We've recommended that facilities download or have immediate access to our 1135 Waiver website at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/1135-Waivers.html>.

The requirement is that facilities have policies and procedure which address knowledge of how to request a waiver, and when a 1135 waiver is granted allowing services to be temporarily provided at an alternate site, how they would operate under this granted waiver. This is not specific, however this policy could address how they would notify staff, patients, and/or the community that they are temporarily providing services at an alternate site.

A surveyor may see some elements within the policy and procedure which could include, but not limited to:

- Facility role in providing care and treatment at alternate site – for example: equipment and supplies, command and control, staffing;
- Collaboration with local officials – proactive planning, pre-designated site? Predestinated roles, emergency credentialing procedures for providers to practice at an alternate site (if waiver does not cover provider licensure);
- The procedure for applying for an 1135 waiver and **contact information for Regional Office and State Survey Agency.**

Surveyors must verify that the facility has a policy and procedure addressing who to contact in the event an 1135 Waiver needs to be requested. If you are a surveyor and the facility makes it clear they are confused by this requirement, we would recommend giving them the above answer in addition to the State Survey Agency and Regional Contact information.

**9. On what occasion will the EP conditions be surveyed?**

**Answer:** From Appendix Z:

“Survey Protocol

These Conditions of Participation (CoP), Conditions for Coverage (CfC), Conditions for Certification and Requirements follow the standard survey protocols currently in place for each facility type and will be assessed during initial, revalidation, recertification and complaint surveys as appropriate. Compliance with the Emergency Preparedness requirements will be determined in conjunction with the existing survey process for health and safety compliance surveys or Life Safety Code (LSC) surveys for each provider and supplier type.”

**10. Does a survey that only finds Emergency Preparedness condition citations require a revisit?**

**Answer:** No. The facility may submit their Emergency Preparedness Plan or deficient elements with the plan of correction. A desk review of the submitted material may be conducted to determine compliance. However, this is based on surveyor discretion as there may be times an on-site revisit is necessary.

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Emergency Preparedness Requirements

**11. Some surveyors are asking how to treat facilities which have continued non-compliance on emergency preparedness?**

**Answer:** As stated in Appendix Z, the EP requirements are to be treated as with any other CoP/CfC or requirement, following the same general enforcement as is currently practice. We do remind surveyors to use their judgment and discretion for the first year of implementation as this rule did require collaboration with partners at local and state levels which presented some challenges. However, the same enforcement is applied to E-Tags as any other Tags.

**12. In a HHA or ICF/IID- if we write out the COP at E0001, do we have to also identify any Governing Body issues?**

**Answer:** There is nothing in the final rule or guidance stating that Governing Body should be cited along with E-0001. While lack of a program could be used as a rationale for citing governing body, there is no requirement stating that if E-0001 is cited, governing body should be cited also. Furthermore, conditions for participation, coverage or requirements should stand alone. There is no defined need to cite multiple different CoPs for one single issue.

**13. Is it necessary for all facilities to have the contact information for each tribe within a respective state, even if one is at the other end of the state? This is addressed at E-0031.**

**Answer:** The tribal contact information would be required if a provider is located in a community that falls under tribal governance or would be collaborating with a "tribal community" for emergency response. The basis of this tag is to establish communication channels with the government entities involved in supporting a facility or possibly requesting help from that facility during an emergency. If a facility is not in a tribal community, it is allowable for them to annotate N/A but must have the other contact information- i.e. local, state and federal contact information.

**14. When the Emergency Preparedness requirements are in compliance, where should be E-000 (Initial Comments) be documented? Is it required that surveyors generate a 2567 for EP.**

**Answer:** E-000 Initial comments may be documented on a separate LSC or Health and Safety CMS 2567. However, if the facility was not cited for EP Tags, we are not requiring a separate 2567 only to annotate compliance.

**15. Are there Emergency Preparedness waivers available for facilities?**

**Answer:** There are no EP waivers.

**16. If Emergency Preparedness is cited as a condition, is initial certification denied?**

**Answer:** Yes, it is treated as any other CoP/CfC or requirement.