

**LABOR SERVICES DIVISION[875]**

**Adopted and Filed**

**Rulemaking related to community right to know hazardous chemicals**

The Labor Services Division hereby rescinds Chapter 130, “Community Right to Know,” and adopts a new Chapter 130, “Community Right to Know Hazardous Chemicals,” Iowa Administrative Code.

*Legal Authority for Rulemaking*

This rulemaking is adopted under the authority provided in Iowa Code section 89B.12.

*State or Federal Law Implemented*

This rulemaking implements, in whole or in part, Executive Order 10.

*Purpose and Summary*

This rulemaking in accordance with Executive Order 10 adopts a new Chapter 130 that requires employers that store hazardous chemicals to provide information about those chemicals to certain interested persons in the community.

*Public Comment and Changes to Rulemaking*

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024, as **ARC 8272C**. A public hearing was held on the following date(s):

- November 19, 2024
- November 20, 2024

No one attended the public hearings.

A comment requested that “trade secret” continue to be defined by a specific federal rule. However, there is not a compelling reason to define the term by another jurisdiction’s law.

No changes from the Notice have been made.

*Adoption of Rulemaking*

This rulemaking was adopted by the Division on December 4, 2024.

*Fiscal Impact*

This rulemaking has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rulemaking, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rulemaking will become effective on February 12, 2025.

The following rulemaking action is adopted:

ITEM 1. Rescind 875—Chapter 130 and adopt the following **new** chapter in lieu thereof:

CHAPTER 130  
COMMUNITY RIGHT TO KNOW HAZARDOUS CHEMICALS

**875—130.1(89B) Employer’s duty.** Upon request, an employer has a duty to inform the public of the presence of hazardous chemicals in the community and the potential health and environmental hazards that the chemicals pose. Requests shall be made during normal office hours of the employer. The employer shall provide the information or reason for refusal within ten days. If the request is from a health professional, the information shall be provided immediately.

**875—130.2(89B) Records accessibility.**

**130.2(1)** Accessible records include safety data sheets. The employer shall also provide information concerning the quantity of each hazardous chemical stored or used. Quantity information may include the manner of purchase, such as in gallon containers, barrels, tankers, etc. Additionally, the employer shall provide information specifying the quantity as less than 500 pounds, between 500 pounds and 1,000 pounds, between 1,000 pounds and 5,000 pounds, or in excess of 5,000 pounds.

**130.2(2)** An employer is not required to make a copy of a safety data sheet if the interested person is given an opportunity to review and make notes regarding the safety data sheet. If an employer provides a copy of a safety data sheet at the request of the interested person, a reasonable fee can be charged for the actual cost of copying.

**875—130.3(89B) Application for exemption.** An employer shall make a written application to the commissioner setting forth the specific grounds for a claimed exemption. Upon receipt of an application, the commissioner will give the applicant notice and opportunity to be heard at a full evidentiary hearing before the commissioner.

**875—130.4(89B) Burden of proof and criteria.**

**130.4(1)** *Trade secrets.* The employer-applicant has the burden of proof in showing that the information claimed as exempted qualifies as a trade secret. The commissioner may take official notice that similar information of the employer-applicant has been deemed a trade secret and may summarily grant the exemption based on the official notice.

**130.4(2)** *Relevance of public health and safety/damage to employer.* The employer-applicant has the burden of proof in showing that the information is not relevant to public health and safety or that the release of the information would damage the employer. Notification in writing by the employer is not, in and of itself, sufficient to allow the employer to obtain the exemption.

**875—130.5(89B) Formal ruling.** The commissioner will issue a formal ruling upon application. The ruling will set forth findings of fact and conclusions of law and grant or deny the application. The ruling is the final agency action for purposes of Iowa Code chapter 17A.

**875—130.6(89B) Request for information.** An interested person may request information from an employer. If the request is denied by the employer, the requesting party may then file an application for information with the division. The application will set forth the information being requested and that the information was refused by the employer or that the employer denies access or that the employer alleges that no records were kept. The applicant shall state the interest in the information requested to be received.

**875—130.7(89B) Filing with division.** Upon receipt of application for information, the division will determine if the applicant has a legitimate interest, and if so, the division will make a written demand upon the employer to provide the requested information to the division. If the employer complies, the division will forward copies to the interested person. Requests for the information under rule 875—130.6(89B) will be kept confidential. The division shall not disclose the name of the interested person to any person.

**875—130.8(89B) Grounds for complaint against the employer.** The commissioner may cite the employer on a formal written complaint on any of the following grounds:

**130.8(1)** The division has not received a reply within 30 days of the request for information pursuant to rule 875—130.7(89B); or

**130.8(2)** The division finds on an occupational safety and health inspection that the employer's records materially distort the information given to the public or an emergency response department so as to pose a serious hazard to community health, environment, or emergency response personnel.

**875—130.9(89B) Investigation or inspection upon complaint.** Within 15 days of determining that there are grounds for a complaint, the commissioner shall either notify the employer in writing of the grounds for the complaint and request information or conduct an unannounced inspection of the employer's workplace at reasonable times and in a reasonable manner. Within 30 days of initiating an investigation or inspection, the division may find that the complaint is invalid and unfounded and so inform the interested person and the employer in writing.

**875—130.10(89B) Order to comply.**

**130.10(1)** If, after conducting an investigation or inspection of the employer's workplace, the commissioner finds that the complaint is meritorious, the commissioner shall issue an order to comply to the employer that shall set forth with specificity the employer's noncompliance with Iowa Code chapter 89B or these rules. The commissioner shall give the employer a period of 30 days to take remedial steps for compliance. The commissioner may establish a shorter period of time if justification is provided in the order to comply.

**130.10(2)** An employer may request an administrative hearing on the order to comply at any time prior to the time set forth for compliance in the order to comply.

**130.10(3)** If the employer has not requested a hearing, the commissioner, after the time set forth for compliance with the order to comply, may reexamine records submitted by the employer or may reinspect the premises. If the employer has not taken the necessary remedial steps required by the order to comply, the commissioner, upon notice and administrative hearing, may issue a decision on the order to comply that is a final agency action pursuant to Iowa Code chapter 17A.

**130.10(4)** In the event that the employer fails to comply with a decision on the order to comply, the commissioner may commence an action in the Iowa district court for injunctive and other equitable relief that may be just and equitable.

These rules are intended to implement Iowa Code section 30.7 and chapter 89B.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/8/25.