

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rulemaking related to public safety/emergency response right to know

The Labor Services Division hereby rescinds Chapter 140, “Public Safety/Emergency Response Right to Know,” Iowa Administrative Code, and adopts a new chapter with the same title.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 89B.17.

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 140 that enhances the safety of fire departments by requiring certain employers to communicate information on their hazardous chemicals.

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 8273C**. A public hearing was held on the following date(s):

- November 19, 2024
- November 20, 2024

No one attended the public hearings. No public comments were received. 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 140 and adopt the following **new** chapter in lieu thereof:

CHAPTER 140
PUBLIC SAFETY/EMERGENCY RESPONSE RIGHT TO KNOW

875—140.1(89B) Employer waiver applications.

140.1(1) An employer may, in writing, apply to the commissioner for a waiver for less stringent sign posting requirements.

140.1(2) The employer has the burden of proof to show that compliance imposes an undue hardship and that the less stringent sign posting requirements as proposed by the employer offer substantially the same degree of notice and protection to emergency responders as if Iowa Code section 89B.14 were strictly applied.

875—140.2(89B) Agreement between an employer and fire department.

140.2(1) In instances where the posting of a sign for each hazardous chemical would be ambiguous or repetitive or where space is limited by the physical characteristics of the structure, or in situations, such as in a building, structure, or location where a wide variety of materials may be stored having varying degrees of hazards, the identifying symbol shall indicate the most severe degree of hazard in each category except when a high hazard rating would be misleading because of the presence of an insignificant quantity of the material requiring the rating.

140.2(2) The employer and the local fire department may enter into a written agreement providing for the posting of signs for the most hazardous chemical in each principal category. The agreement is subject to the approval of the division pursuant to the procedure for a waiver. If the waiver is approved, the employer shall post in the same location as the required posted signs a sign stating: “Signs not posted for all hazardous chemicals” in block letters at least three inches in height.

875—140.3(89B) Information submitted to local fire department. The employer shall submit to the local fire department a list of hazardous chemicals that the employer’s facility consistently generates, uses, stores, or transports. The employer shall submit updated information as it becomes available to the employer.

140.3(1) This rule applies to any amount of a hazardous chemical that meets at least one of the following criteria:

- a. Is a U.S. Department of Transportation Division 1.1, Division 1.2, or Division 1.3 explosive;
- b. Is a U.S. Department of Transportation Division 2.3 toxic gas;
- c. Is a U.S. Department of Transportation Division 6.1 toxic substance;
- d. Is a U.S. Department of Transportation Division 4.3 material;
- e. Is a U.S. Department of Transportation Radioactive Yellow III material;
- f. Has a National Fire Protection Association (NFPA) 704-2022 health rating of greater than or equal to 3;
- g. Has an NFPA 704-2022 flammability rating of 4; or
- h. Has an NFPA 704-2022 reactivity rating of 4.

140.3(2) This rule applies to a hazardous chemical that is present in aggregate quantities of 25 gallons of liquid, 250 pounds of nonliquid, or 250 combined pounds of liquid and nonliquid and has:

- a. An NFPA 704-2022 health rating of greater than or equal to 2;
- b. An NFPA 704-2022 flammability rating of greater than or equal to 3; or
- c. An NFPA 704-2022 reactivity rating of greater than or equal to 2.

140.3(3) In addition to a list of the hazardous chemicals, the employer shall provide the following:

- a. The employer's name;
- b. The name, phone number, and email address of the employer's contact person;
- c. The employer's mailing address;
- d. The address of the facility where hazardous chemicals are present;
- e. The NFPA numerical hazard rating in health, flammability, and reactivity for each hazardous chemical;
- f. Any information that constitutes a special hazard pursuant to NFPA 704-2022, Chapter 5, for each listed chemical; and
- g. Any other special hazard information from the safety data sheets that may be relevant.

140.3(4) If requested by the fire department, the employer shall provide to the fire department the information listed in this subrule, unless the fire department tours the facility annually.

- a. A diagram that shows the permanent location of each hazardous chemical within the employer's facility, as well as easily recognizable reference points such as doorways, stairs, and windows; and
- b. A copy of the safety data sheets.

875—140.4(89B) Procedure for noncompliance. If an employer fails to comply with the requirements of this chapter, the fire chief in the jurisdiction of the employer may file a written complaint with the commissioner.

875—140.5(89B) Notice of noncompliance. The commissioner may rely on the information provided by the fire chief and immediately issue a notice of noncompliance to the employer.

140.5(1) Opportunity for hearing. The notice of noncompliance shall be sent by certified mail and set forth that the employer may have an opportunity to be heard upon demand by the employer. In the event the employer demands a hearing, the commissioner may conduct an investigation or an inspection.

140.5(2) In the event the employer does not demand a hearing within 30 days of the receipt of notice of noncompliance, the commissioner shall, without further notice, issue an order for compliance that is a final agency action pursuant to Iowa Code chapter 17A.

140.5(3) In the event the issue of noncompliance comes for hearing before the commissioner, the commissioner may, at the conclusion of the hearing, issue an order for compliance that is final agency action pursuant to Iowa Code chapter 17A or dismiss the complaint.

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

[Filed 12/17/24, effective 2/12/25]

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