

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Regulatory Analysis

Notice of Intended Action to be published: 605—Chapters 102 through 104
“Emergency Planning and Reporting”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 30

State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, Senate File 2370

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

July 15, 2025
9:30 a.m.

Geode Room
7900 Hickman Road, Suite 500
Windsor Heights, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Homeland Security and Emergency Management Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

Pursuant to Executive Order 10 and 2024 Iowa Acts, Senate File 2370, the Department proposes to rescind Chapters 102, 103, and 104 and adopt a new combined Chapter 102 in lieu thereof. The proposed chapter describes the structure and guidelines under which local emergency planning and chemical response is administered throughout the State.

The new chapter omits language that is overly restrictive or obsolete and, as a result, shortens the chapters.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

• Classes of persons that will bear the costs of the proposed rulemaking:

There is no direct cost associated with the proposed rulemaking.

• Classes of persons that will benefit from the proposed rulemaking:

All individuals within the State benefit from a well-run and documented local emergency planning commission and community right-to-know regarding hazardous chemicals.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

• Quantitative description of impact:

This type of planning is tied to various federal preparedness grant programs administered by the Department. One of the annual requirements for federal funding is to maintain planning compliance as detailed in this proposed rulemaking. If this planning is not performed and deemed compliant by

the Department, jurisdictions are not eligible for this federal funding as subrecipients of the grant funding.

- **Qualitative description of impact:**

Failure to complete the planning and preparedness activities outlined in this proposed rulemaking leaves Iowa less prepared for any emergency relating to hazmat transportation, storage, or a separate emergency that inadvertently involves hazmat (e.g., fire, flood of a hazmat facility, or intentional act). The activities delineated in these proposed rules provide awareness of hazardous materials in a jurisdiction, require local officials to coordinate with each other on at least an annual basis, and provide requirements to communicate to the public about these materials and the actions being taken to increase safety and preparedness. Hazardous materials by their nature require specialized handling, training, equipment, planning, and preparedness. Without the actions required in these proposed rules, this kind of preparedness could diminish, leaving Iowa citizens more vulnerable to a hazardous materials incident.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no costs to the State or the Department associated with this proposed rulemaking; however, there may be federal or civil penalties for noncompliance.

- **Anticipated effect on State revenues:**

There are no anticipated effects on State revenues. However, noncompliance could subject the State and local jurisdictions to a loss of federal funding.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Without these proposed rules, local jurisdictions would be subject to denial of federal grant funds, as well as harm caused to citizens through lack of training and preparedness to handle potentially dangerous materials within the communities.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Department seeks to implement these rules in the least intrusive and prescriptive manner as possible, while still maintaining the responsibilities detailed in 42 U.S.C. Section 11022. Where intrusive or prescriptive methods remain in this proposed rulemaking, the Department is following federal guidelines to ensure compliance.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were seriously considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The rulemaking has no direct impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 605—Chapter 102 and adopt the following new chapter in lieu thereof:

CHAPTER 102
EMERGENCY PLANNING AND REPORTING

DIVISION I—EMERGENCY PLANNING DISTRICTS

605—102.1(30) Designation and organization of emergency planning districts. The department of homeland security and emergency management (department) is required to designate emergency planning districts. A local emergency planning committee is appointed by the department for each emergency planning district. The local emergency planning committee shall be responsible for the implementation of Emergency Planning and Community Right-to-Know Act (EPCRA) activities in each of the emergency planning districts, including facilitating preparation and implementation of emergency planning for the emergency planning district.

605—102.2(30) Emergency planning districts—counties. Each of the presently existing 99 Iowa counties is designated as the geographic boundaries for an emergency planning district.

605—102.3(30) Application to modify districts. Two or more local emergency planning committees with commonality of interests may petition the department to amend, modify, or combine their districts. Petitions shall specify the geographical district requested, the reasons for the change, the benefit to the public by the designation of the proposed geographical district, and the proposed date for the change in designation.

605—102.4 to 102.10 Reserved.

DIVISION II—LOCAL EMERGENCY PLANNING COMMITTEES

605—102.11(30) Appointment of local emergency planning committees (LEPCs).

102.11(1) Purpose. The Iowa emergency response commission (IERC) reviews membership lists of persons to serve on an LEPC. Annually, the LEPC chair will submit a current LEPC membership list with the chair's signature and date the document to verify current and authorized membership. The current verified membership list will be sent to the IERC.

102.11(2) Representation. At minimum, each LEPC should be comprised of a representative from each of the following groups or organizations:

- a. Elected state and local officials,
- b. Law enforcement personnel,
- c. Emergency management personnel,
- d. Firefighting personnel,
- e. First-aid personnel,
- f. Health personnel,
- g. Local environmental personnel,
- h. Hospital personnel,
- i. Transportation personnel,
- j. Broadcast and print media,
- k. Community groups, and

l. Owners and operators of facilities subject to the requirements of EPCRA.

A person may represent one or more of the disciplines listed, provided the person is duly appointed by each group or organization to be represented.

605—102.12(30) LEPC members.

102.12(1) *Appointment of LEPCs.* Nominations to an existing LEPC shall be made by the LEPC, and the department shall be notified. Vacancies on the LEPC shall be filled in accordance with this subrule.

102.12(2) *Meeting participation.* Any member of the local emergency management commission may participate in any meeting of the LEPC. If the local emergency management commission member is not the appointed representative of one of the groups or organizations specified in subrule 102.11(2), the local emergency management commission member shall not be eligible to vote on any issue before the LEPC.

102.12(3) *Member changes.* The department may revise the appointments made as it deems appropriate. Interested persons may petition the department to modify the membership of an LEPC.

605—102.13(30) LEPC duties.

102.13(1) The LEPC shall establish procedures for the functioning of the committee to include:

- a.* The length of terms of the LEPC members and the selection of a chair and vice chair;
- b.* The public notification of committee activity (42 U.S.C. 11001(c));
- c.* The conduct of public meetings to discuss the emergency plan (Iowa Code chapter 21 and 42 U.S.C. 11001(c)); and
- d.* The procedures for receiving and responding to public comments and the distribution of emergency plans (42 U.S.C. 11001(c)).

102.13(2) The LEPC shall establish procedures for receiving and processing requests from the public for information under EPCRA Section 324, including Form Tier II information under EPCRA Section 312 (42 U.S.C. 11001(c)).

102.13(3) The LEPC shall designate a 24-hour emergency contact point(s) for the immediate receipt of chemical release notifications (42 U.S.C. 11003(c)(3)).

102.13(4) The LEPC shall designate an official to respond to requests for information from the public for safety data sheets (SDSs), chemical lists, chemical inventory forms, emergency response plans, and toxic chemical release forms. The information, including minutes of LEPC meetings and related committee actions, shall be available to the public during normal working hours at a location designated by the LEPC (42 U.S.C. 11044(a)).

102.13(5) The LEPC shall prepare an emergency plan for the district and shall review and revise as necessary the emergency plan at least annually. Both the initial emergency plan and any updates or revisions shall be submitted by the LEPC to the department in accordance with rule 605—102.14(30) (42 U.S.C. 11003(a), 42 U.S.C. 11003(e)).

102.13(6) The LEPC shall evaluate the need for resources in the district necessary to develop, implement, and exercise the emergency plan(s) and make recommendations (42 U.S.C. 11003(b)).

102.13(7) The LEPC shall maintain a current listing of the emergency coordinators designated by each covered facility (42 U.S.C. 11003(d)(1)).

102.13(8) The LEPC shall receive, review and act upon information updates from covered facilities regarding emergency planning.

102.13(9) The LEPC shall annually publish notice that emergency response plans, SDSs, and inventory forms have been submitted and how the public can obtain access to the material for review (42 U.S.C. 11044(b)).

605—102.14(30) Emergency response plan development. The department acknowledges that emergency planning includes more than chemical release planning. The chemical release planning required by this chapter and EPCRA shall be included in the comprehensive emergency planning

conducted by the local emergency management commission per Iowa Code chapter 29C and planning standards of the department.

605—102.15(30) LEPC office. The LEPC shall designate a local government office that will serve as the focal point for receiving nonemergency notifications from facilities that are subject to the law. This office shall also be the depository for SDSs, chemical lists, chemical inventory forms, emergency response plans, and toxic chemical release forms; a point of contact for the public regarding community right-to-know inquiries; and the office of record for minutes of LEPC meetings and related committee actions.

605—102.16(30) LEPC meetings. The LEPC shall meet as frequently as deemed necessary by the chair until the local emergency operations plan is developed and concurred with by the joint administration and reviewed by the department. Subsequent to plan approval, the LEPC is required to meet at least annually to review emergency response procedures, review emergency plans and ensure the actions required are properly administered within the local emergency planning district.

605—102.17(30) Local emergency response plan submission. After completion of the initial emergency response plan and any subsequent revisions thereto, the LEPC shall submit a copy to the department. The department shall review the submission and make recommendations to the LEPC on appropriate revisions that may be necessary to comply with provisions in 42 U.S.C. 11003(c) and state planning standards in 605—Chapter 7 to ensure coordination with emergency response plans of other emergency planning districts, the state of Iowa, and adjacent states. To the maximum extent practicable, the review shall not delay implementation of the plan or revisions thereto. All plans shall be submitted annually by a date determined by the department.

605—102.18 to 102.20 Reserved.

DIVISION III—REPORTS AND RECORDS

605—102.21(30) Department of homeland security and emergency management.

102.21(1) Emergency planning notification. The owner or operator of each facility subject to the planning notification requirement shall notify the department that the facility is subject to the requirements of EPCRA Section 302, 42 U.S.C. 11002. The notification is to be on the Tier II form specified in subrule 104.2(4). The facility owner or operator shall submit the notification to the department of natural resources (DNR) by March 1 for covered chemicals in its possession. If the facility is reporting chemicals to the DNR on the Tier II form pursuant to subrule 102.22(4), a duplicate report is not required. The report shall be revised by a notification on the Tier II form within 60 days after the acquisition of chemicals meeting the notification requirements and reported to the department.

102.21(2) Plan development. Each LEPC shall prepare a comprehensive emergency response plan pursuant to 42 U.S.C. 11033 that will become an integrated portion of the emergency plan established by the joint administration. Where a local emergency planning district exceeds the jurisdictional boundaries of a single joint administration, a comprehensive emergency response plan shall be developed for each joint administration at least annually. The plan shall be reviewed and revised as necessary. The joint administration shall not change the plan without the approval of the LEPC.

102.21(3) Submissions. Plans and notifications required under this rule will be submitted electronically to the department.

605—102.22(30) Department of natural resources.

102.22(1) Emergency notifications of releases. Each release subject to the requirements of EPCRA Section 304, 42 U.S.C. 11004, shall be submitted to the DNR. This notification shall be done

in conjunction with the notification required by rule 567—105.5(455B). Notification of a release shall be telephoned to the DNR at 515.725.8694 immediately. A follow-up report shall be made within 30 days.

102.22(2) *Toxic chemical release form.* The owner or operator of a facility subject to the requirements of EPCRA Section 313, 42 U.S.C. 11023, shall submit information required by the federal Environmental Protection Agency regulations to the DNR, if requested. The information for the previous calendar year shall be submitted by July 1 of the following year.

102.22(3) *SDS information.* The owner or operator of a facility required to prepare or have available an SDS for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act shall submit a list of each chemical or an SDS required to be submitted under EPCRA Section 311, 42 U.S.C. 11021. The list/SDS shall be submitted to the DNR and to the appropriate LEPC and the fire department in whose jurisdiction the facility is located. The list/SDS must be submitted to the DNR within 90 days of the facility first acquiring the chemical above reporting thresholds.

102.22(4) *Emergency and hazardous chemical inventory form (Tier II).* The owner or operator of a facility required to prepare or have available an SDS for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act shall submit emergency and hazardous chemical inventory information required to be submitted under EPCRA Section 312, 42 U.S.C. 11022. The information shall be submitted to the DNR, the appropriate LEPC, and the fire department in whose jurisdiction the facility is located by March 1 for the chemicals in its inventory the preceding calendar year. Tier I forms will not be accepted. The information shall be submitted via the DNR online Tier II reporting tool.

102.22(5) *Submissions.* Notifications and reports required under this rule shall be submitted to the Department of Natural Resources, EPCRA, 6200 Park Avenue, Suite 200, Des Moines, Iowa 50321, or electronically through online reporting tools as noted in subrule 102.22(4). Additional information can be found in rule 567—131.2(455B).

These rules are intended to implement Iowa Code chapter 30.

ITEM 2. Rescind and reserve **605—Chapter 103.**

ITEM 3. Rescind and reserve **605—Chapter 104.**