

CHAPTER 30

CHEMICAL EMERGENCIES — EMERGENCY RESPONSE COMMISSION

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30.1 Definitions.

For the purposes of this chapter, unless the context otherwise requires:

1. “*Commission*” means the Iowa emergency response commission.
2. “*Committee*” means a local emergency planning committee appointed by the commission.
3. “*Emergency Planning and Community Right-to-know Act*” means Pub. L. No. 99-499, Tit. III, 42 U.S.C. § 11001 et seq., as amended to January 1, 1989.

89 Acts, ch 204, §2; 2010 Acts, ch 1061, §180

[T] Federal Act reference updated pursuant to Code editor directive

30.2 Iowa emergency response commission established.

1. The Iowa emergency response commission is established. The commission is responsible directly to the governor. The commission is attached to the department of public defense for routine administrative and support services only.

2. *a.* The commission is composed of fifteen members appointed by the governor. One member shall be appointed to represent the department of agriculture and land stewardship, one to represent the department of workforce development, one to represent the department of justice, one to represent the department of natural resources, one to represent the department of public defense, one to represent the Iowa department of public health, one to represent the department of public safety, one to represent the state department of transportation, one to represent the state fire service and emergency response council, one to represent a local emergency planning committee, one to represent the Iowa hazardous materials task force, and one to represent the office of the governor. Three representatives from private industry shall also be appointed by the governor, subject to confirmation by the senate.

b. The commission members representing the departments of workforce development, natural resources, public defense, public safety, and transportation and one private industry representative designated by the commission shall be voting members of the commission. The remaining members of the commission shall serve as nonvoting, advisory members.

3. The commission members shall be appointed for staggered terms of three years each, beginning and ending as provided in section 69.19. Vacancies shall be filled in the same manner as the original appointments were made.

89 Acts, ch 204, §3; 96 Acts, ch 1186, §23; 2000 Acts, ch 1020, §7; 2000 Acts, ch 1232, §45

[P] Confirmation, see §2.32

30.3 Officers and meetings.

The members of the commission shall select a chairperson and a vice chairperson from their membership. The commission shall meet at least twice per year but may meet as often as necessary. Meetings shall be set by a majority of the commission or upon the call of the chairperson, or in the chairperson’s absence, upon the call of the vice chairperson.

89 Acts, ch 204, §4

30.4 Expenses.

The members of the commission are entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties.

89 Acts, ch 204, §5

30.5 Commission powers and duties.

1. The commission has the powers necessary to carry out the functions and duties specified in state law and the Emergency Planning and Community Right-to-know Act, including the powers to solicit and accept gifts and grants, and to adopt rules pursuant to chapter 17A. All federal funds, grants, and gifts shall be deposited with the treasurer of state and used only for the purposes agreed upon as conditions for receipt of the funds, grants, or gifts.

2. The commission may enter into agreements pursuant to chapter 28E to accomplish any duty imposed upon the commission by the Emergency Planning and Community Right-to-know Act, but the commission shall not compensate any governmental unit for the performance of duties pursuant to such an agreement. Funding for administering the duties of the commission under sections 30.7, 30.8, and 30.9 shall be included in the budgets of the department of natural resources and the department of public defense.

3. The commission may request from any state agency or official the information and assistance necessary to perform the duties of the commission. All state departments, divisions, agencies, and offices shall make available upon request information which is requested and which is not by law confidential.

89 Acts, ch 204, §6; 96 Acts, ch 1186, §23; 2007 Acts, ch 211, §31

30.6 Commission duties.

1. The commission shall designate local emergency planning districts and appoint persons to serve on local emergency planning committees. The commission may, upon request, revise its designations of districts and appointments of committee members.

2. The commission shall supervise and coordinate the activities of the committees.

3. Upon request by a state or local official or any person, the commission shall obtain from a facility owner or operator the emergency and hazardous chemical inventory information which the owner or operator is required to prepare and submit pursuant to section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022, and provide the information to the requesting party.

4. The commission shall make available to the public upon request during normal working hours material safety data sheets, lists of hazardous chemicals, inventory forms, toxic chemical release forms, and follow-up emergency notices in its possession pursuant to section 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11044.

5. The commission shall perform all other functions and duties as specified in the Emergency Planning and Community Right-to-know Act.

89 Acts, ch 204, §7

30.7 Duties to be allocated to department of natural resources — emergency and hazardous chemicals.

Agreements negotiated by the commission and the department of natural resources shall provide for the allocation of duties to the department of natural resources as follows:

1. Material safety data sheets or a list for chemicals required to be submitted to the commission under section 311 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021, shall be submitted to the department of natural resources. Submission to that department constitutes compliance with the requirement for notification to the commission.

2. Emergency and hazardous chemical inventory forms required to be submitted to the commission under section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022, shall be submitted to the department of natural resources.

Submission to that department constitutes compliance with the requirement for notification to the commission.

3. The department of natural resources shall advise the commission of the failure of any facility owner or operator to submit information as required under sections 311 and 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021 and 11022.

4. The department of natural resources shall make available to the public upon request during normal working hours the information forms in its possession pursuant to sections 312 and 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022 and 11044.

5. The department of natural resources shall compile data or information from the emergency and hazardous chemical inventory forms required to be submitted to the commission under section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022.

89 Acts, ch 204, §8; 91 Acts, ch 255, §6; 96 Acts, ch 1186, §23; 97 Acts, ch 40, §1; 2007 Acts, ch 211, §32

30.8 Duties to be allocated to department of natural resources.

Agreements negotiated by the commission and the department of natural resources shall provide for the allocation of duties to the department of natural resources as follows:

1. Emergency notifications of releases required to be submitted to the commission under section 304 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11004, shall be submitted to the department of natural resources. Submission to that department constitutes compliance with the requirement for notification to the commission.

2. The department of natural resources shall advise the commission of the failure of any facility owner or operator to submit a notification as required under section 304 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11004.

3. The department of natural resources shall make available to the public upon request during normal working hours the information in its possession pursuant to section 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11044.

4. The department of natural resources shall compile the data collected pursuant to section 313 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11023, and shall make the compiled data available to the public upon request.

89 Acts, ch 204, §9; 91 Acts, ch 255, §7

30.9 Duties to be allocated to department of public defense.

Agreements negotiated by the commission and the department of public defense shall provide for the allocation of duties to the department of public defense as follows:

1. Comprehensive emergency response plans required to be developed under section 303 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11003, shall be submitted to the department of public defense. Committee submission to that department constitutes compliance with the requirement for reporting to the commission. After initial submission, a plan need not be resubmitted unless revisions are requested by the commission. The department of public defense shall review the plan on behalf of the commission and shall incorporate the provisions of the plan into its responsibilities under chapter 29C.

2. The department of public defense shall advise the commission of the failure of any committee to submit an initial comprehensive emergency response plan or a revised plan requested by the commission.

3. The department of public defense shall make available to the public upon request during normal working hours the information in its possession pursuant to section 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11044.

89 Acts, ch 204, §10

30.10 Powers of local emergency planning committees.

The local emergency planning committee appointed by the commission for each local emergency planning district has the powers necessary to carry out the functions and duties specified in state law and the Emergency Planning and Community Right-to-know Act.

89 Acts, ch 204, §11

30.11 Liability of committee members.

A person appointed as a member of a local emergency planning committee is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the functions and duties specified in the state law and the Emergency Planning and Community Right-to-know Act, except for acts and omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

89 Acts, ch 204, §12

30.12 Civil action.

1. The commission may commence a civil action against an owner or operator of a facility who has violated federal requirements to do any of the following:

a. Provide notification under section 302(c) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11002(c).

b. Submit a material safety data sheet or a list under section 311(a) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021(a).

c. Make available information requested under section 311(c) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021(c).

d. Complete and submit an inventory form under section 312(a) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022(a), containing tier I information unless tier II information is submitted for the same period of time.

e. Provide information under section 303(d) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11003(d).

f. Submit tier II information under section 312(e)(1) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022(e)(1).

2. The Iowa district court shall have jurisdiction over actions brought under this section and may grant any appropriate relief.

89 Acts, ch 204, §13