

**PART 26**  
**COLORADO EMERGENCY PLANNING COMMISSION**

**-32-2601. Implementation of Title III of superfund act.**

(1) The general assembly hereby finds and declares that the implementation of the federal "Emergency Planning and Community Right-to-Know Act of 1986", 42 U.S.C. sec. 11001 et seq., Title III of the federal "Superfund Amendments and Reauthorization Act of 1986", P.L. 99-499, is a matter of statewide concern.

(2) The department of local affairs is the state agency responsible for the implementation of the federal "Emergency Planning and Community Right-to-Know Act of 1986", 42 U.S.C. sec. 11001 et seq., Title III of the federal "Superfund Amendments and Reauthorization Act of 1986", P.L. 99-499, and regulations thereunder, as amended.

**Source: L. 92:** Entire part added, p. 1040, § 5, effective March 12.

**-32-2602. Definitions.**

All terms used in this part 26 shall have the same meaning as defined under the federal "Emergency Planning and Community Right-to-Know Act of 1986", 42 U.S.C. sec. 11001 et seq., P.L. 99-499, and regulations thereunder, referred to in this part 26 as the "federal act".

**Source: L. 92:** Entire part added, p. 1040, § 5, effective March 12.

**-32-2603. Colorado emergency planning commission - creation - duties.**

(1) (a) There is hereby created in the department of local affairs the Colorado emergency planning commission, which shall exercise its powers and perform its duties and functions under the department of local affairs as if the same were transferred to the department by a **type 2** transfer; except that the commission shall have full authority to promulgate rules and regulations related to the administration of this part 26. The commission shall consist of twelve members. Five of the twelve members shall be the following representatives of state government or their designees: The director of the division of fire safety in the office of preparedness, security, and fire safety in the department of public safety, the director of the division of local government in the department of local affairs, the director of the division of emergency management in the department of local affairs, who shall be a cochairperson, the director of the division in the department of public health and environment responsible for hazardous materials and waste management, who shall also be a cochairperson, and a representative of the Colorado state patrol in the department of public safety. The remaining seven members of the commission shall be appointed by the governor for two-year terms. Of those seven members, two shall represent local governments, two shall be from either public interest groups or community groups, one shall represent a local emergency planning committee, and two shall represent affected industries. The governor shall fill any vacancy by appointment.

(b) The members of the Colorado emergency planning commission, as such existed prior to March 12, 1992, shall become the initial members of the commission on March 12, 1992.

(2) Members of the commission shall receive no compensation or per diem for their services on the commission; except that members may be reimbursed for travel expenses incurred in connection with activities other than attending meetings of the commission.

(3) The commission shall also assist in the appropriate training of personnel to react to emergency response situations.

**Source: L. 92:** Entire part added, p. 1040, § 5, effective March 12. **L. 93:** (1)(a) amended, p. 1321, § 1, effective June 6. **L. 94:** (1)(a) amended, p. 2739, § 373, effective July 1. **L. 2002:** (1)(a) amended, p. 1212, § 9, effective June 3. **L. 2004:** (1)(a) amended, p. 1182, § 18, effective August 4.

### **-32-2603.5. Powers and duties of the commission.**

(1) It is the intent of the general assembly that the commission promulgate rules and regulations pursuant to this part 26 that encourage:

(a) Consistency between information requested by the commission and the purposes of implementation of the federal act; and

(b) Cost effective reporting and the consideration of reasonable reporting threshold levels and reporting formats.

(2) Consistent with the powers and duties imposed upon it by the federal act, or granted to it in this part 26, the commission shall have the following powers and duties:

(a) To adopt all reasonable rules and regulations necessary for the administration of this part 26. Such rules and regulations shall be promulgated in accordance with the applicable provisions of article 4 of this title.

(b) To establish a uniform system for reporting and management of information required by the federal act;

(c) To create and adopt such forms as are necessary for the uniform reporting and management of information required by the federal act, including, but not limited to, the following:

(I) A standardized tier II reporting form to replace the tier II form which is required under the federal act, and which shall be accepted by local emergency planning committees in reporting the information contained therein; and

(II) A standardized facility contingency plan form as an addendum to the form required in subparagraph (I) of this paragraph (c), which shall be used for the collection of emergency planning information from facilities by local emergency planning committees. This form shall include space in which local emergency planning committees may require additional information of local concern.

(d) To coordinate its activities with those of the Colorado state patrol relating to the transportation of hazardous materials.

**Source: L. 93:** Entire section added, p. 1322, § 2, effective June 6.

**-32-2604. Local emergency planning committees - creation and duties.**

(1) The commission shall designate local emergency planning districts to develop emergency response and preparedness capabilities in accordance with the federal act. The boundaries of such districts shall be the same as the boundaries of either a county, municipality, or a combination thereof.

(2) Upon the request of the commission, the primary governing body having jurisdiction over the local emergency planning district, the county commissioners, or the city council, as the case may be, shall provide nominations for membership on the local emergency planning committee. The commission shall appoint members of a local emergency planning committee for each emergency planning district in accordance with the federal act. For local emergency planning districts for which no nominations have been submitted by the governing body, the commission may designate either the county commissioners or city council, as the case may be, to serve as the local emergency planning committee.

(3) Local emergency planning committees shall perform the duties described under the federal act.

**Source: L. 92:** Entire part added, p. 1041, § 5, effective March 12.

**-32-2605. Immunity.**

(1) No state commission or agency or county or municipal agency, including local emergency planning committees, citizen corps councils, fire protection districts, and volunteer fire, ambulance, or emergency service and rescue groups, nor their officers, officials, directors, employees, or volunteers, when engaged in emergency planning, service, or response activities regarding a hazardous material release, threat of release, or act of terrorism, shall be liable for the death of or injury to any person or for the loss of or damage to property or the environment resulting from the hazardous material release, threat of release, or act of terrorism, except for willful and wanton acts or omissions.

(1.5) No private organization or any of its officers, officials, directors, employees, or volunteers, when working under the direction of a local emergency planning committee or state or local fire or law enforcement agency and when engaged in emergency planning, training, or response activities regarding a hazardous material release, threat of release, or act of terrorism, shall be liable for the death of or injury to any person or for the loss of or damage to property or the environment resulting from the hazardous material release, threat of release, or act of terrorism, except for willful and wanton acts or omissions.

(2) No member of the commission or any local emergency planning committee shall be liable for the death of or any injury to persons or loss or damage to property or the environment or any civil damages resulting from any act or omission arising out of the performance of the functions, duties, and responsibilities of the commission or local emergency planning committee, except for acts or omissions which constitute willful misconduct.

(3) Nothing in this section shall be construed to abrogate or limit the immunity or exemption from civil liability of any agency, entity, or person under any statute, including the "Colorado Governmental Immunity Act", article 10 of this title, or section [-21-108.5](#), C.R.S.

**Source: L. 92:** Entire part added, p. 1041, § 5, effective March 12. **L. 2004:** (1) amended and (1.5) added, p. 676, § 1, effective April 26.

**[-32-2606. SARA Title III fund - acceptance of gifts, grants, and donations.](#)**

(1) There is hereby created in the state treasury a fund to be known as the SARA Title III fund, which shall be administered by the commission. The moneys in the fund shall be subject to annual appropriation by the general assembly for the purposes of this part 26 including, but not limited to, the disbursement of grants pursuant to section [-32-2607](#).

(2) The commission is hereby authorized to accept all moneys received from the federal government and from public or private grants, gifts, bequests, donations, and other contributions for any purpose consistent with the provisions of this part 26. Such moneys shall be credited to the SARA Title III fund created by subsection (1) of this section.

(3) In accordance with section [-36-114](#), all interest derived from the deposit and investment of this fund shall be credited to the general fund.

**Source: L. 93:** Entire section added, p. 1322, § 2, effective June 6.

**[-32-2607. Application for grants - disbursements from fund - regulations.](#)**

(1) The department of local affairs shall administer all grants from the fund. The department of local affairs shall accept applications from local emergency planning committees and from first responder organizations who have coordinated their request with their local emergency planning committee and shall direct those applications to the commission. The commission shall evaluate the applications and shall recommend to the department of local affairs which grants should be made for the purposes of emergency planning and emergency response, including, but not limited to, training and planning programs and training and planning equipment as needed to carry out the purposes of this part 26.

(2) The commission shall promulgate rules and regulations prescribing the procedures to be followed in the making, filing, and evaluation of grant applications, and any other regulations necessary for administering the SARA Title III fund.

**Source: L. 93:** Entire section added, p. 1322, § 2, effective June 6.