

**MEMORANDUM**

May 9, 2012

TO: Public Safety Committee

FROM:  Keith Levchenko, Senior Legislative Analyst

SUBJECT: **Executive Regulation 3-12, Hazardous Materials Use Permit – Method 2**

On April 16, the County Executive transmitted Executive Regulation 3-12, Hazardous Materials Use Permit, under Method 2.<sup>1</sup>

The following officials and staff are expected to attend the Committee meeting:

- Chris Voss, Manager, Office of Emergency Management and Homeland Security (OEMHS)
- Debbie Greenwell, OEMHS
- Adam Damin, Office of Management and Budget

Attachments

- County Executive Transmittal and Fiscal Impact Statement (©1-7)
- Executive Regulation 3-12 “Hazardous Materials Use Permit” (©8-24) (with mark-ups showing changes made from Executive Regulation 17-03 as approved in December 2003)
- Comments Received (©25)

**Background**

Executive Regulation 3-12 will replace Executive Regulation 17-03, Hazardous Materials Use Permit, previously adopted by the Council in July 2003.

Regulation 17-03 requires all industrial, commercial, educational, recreational, agricultural, research, or institutional occupancy that uses, processes, stores, transfers, or manufactures hazardous substances, in quantities which pose a risk to first responders or the surrounding community, to annually inform the County as to what is being stored and to pay an initial and recurring permit fee

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<sup>1</sup>As a Method 2 regulation, the Council may approve or disapprove the proposed regulation within 60 days after receiving it. If no action is taken within 60 days to approve or disapprove the regulation and the Council does not act to extend the deadline, then the regulation is automatically approved. If approved by the Council, the regulation becomes effective the day after approval, since no later date is specified in the regulation.

based on the categorization of the facility (light use, general use, high use, and Superfund Amendments and Reauthorization Act (SARA) facilities).

ER 3-12 does not increase the initial or annual registration fee schedule or fundamentally change the permit process. However, there are some potential revenue impacts (both up and down) as detailed in the Fiscal Impact Statement on ©5-7. Based on the information available to analyze the potential revenue impacts of each change noted above, the fiscal impact statement notes an annual fiscal impact range of \$159,900 in additional revenue to \$139,350 in reduced revenue. Based on this uncertainty, the regulation is assumed to be cost neutral.

The Executive transmittal notes that no comments were received during the advertising period of ER 3-12. After transmittal to the Council, the Council received one letter (attached on ©25) that advocates raising the hazardous materials threshold for “General Use” facilities. This letter is discussed in more detail later.

### **Changes Included Within Executive Regulation 3-12**

Executive Regulation (ER) 3-12 makes several substantive changes to ER 17-3. These are described below, and comments from Council Staff are provided after each change is described:

- 1. Adds a category under both the “High Use Facilities” definition (see Section III(b)(2)(C)) and the “General Use Facilities” definition (see Section III(b)(3)(E)) for uninterruptible power supply systems.**

These revisions distinguish between “flooded lead acid batteries” versus “valve regulated lead acid batteries.” OEMHS’ comments on the differences between these types of batteries are included below:

*While there are several differences between the valve regulated and flood acid batteries, this regulation is primarily concerned with the differences in risk to responders and the community. Regulated lead acid batteries are preferred because they do not leak if the battery is cracked or punctured and can’t spill if the batteries are knocked over or put on their side. Valve regulated batteries also tend to be more expensive (typically twice as expensive, but they can be up to 5 times the cost because of their construction) and often need to be replaced at a greater frequency than flood acid batteries.*

The Executive’s transmittal memorandum notes that the entities most likely to benefit from this new language are the owner/operators of the over 500 cell phone towers in the County. These facilities are required to have battery backup power and, as a result, fall into the “High Use” category. This new language would give these facilities a choice to move into the “General Use” category by purchasing the more expensive valve regulated lead acid batteries.

**Council Staff concurs with this new language.**

**2. Establishes a consultation fee (see Section IV(b)(2)) based on an hourly rate (\$100 per hour).**

This new fee would be charged for appointments with the Hazmat Permitting Program Specialist. OEMHS estimates that it provides approximately 350 to 410 consultations per year. According to OEMHS, these consultations cost approximately \$111 per hour when factoring in personnel costs and indirect costs. OEMHS staff provided the following clarification as to what a consultation entails:

*We consider a consultation as an appointment to have a specialist provide hands-on assistance using the online system. We have many customers who come in year after year to sit with staff instead of utilizing the online system on their own. This type of service would incur the consultation fee... General inquiries consisting of phone or email inquiries would not be considered a consultation.*

If these consultations continued at these levels with the fee, an estimated \$35,000 to \$41,000 in revenue would be raised. However, some drop-off in consultations appears likely, given the hourly rate.

**Council Staff concurs with this new language.**

**3. Increases late fees for facilities that do not register within 180 days after the required filing date (see Section IV(b)(5)(D)).**

This change would add a fee totaling 100% of the basic fee if the registration is 180 days (or more) after the required filing date.<sup>2</sup> Currently, the late registration penalty tops out at 50% of the basic fee 90 days after the required filing date. **Council Staff concurs with this change.**

**4. Adds a waiver provision by which the OEMHS Manager may waive or reduce any fee required under this regulation (see Section IV(c)).**

This change is intended to codify current practices. In response to Council Staff questions regarding the waiver language, OEMHS noted:

*This language is new to this regulation, but it is similar to language in the Fire Service Code. This waiver will provide clear authority for OEMHS to provide a waiver during unforeseen circumstances. Currently, the regulation is unclear if any flexibility exists or if anyone within the program can initiate a waiver.*

*No waiver has been granted absolving an organization of their initial or annual fee; however, waivers have been granted providing owners and operators additional time to pay those fees without a penalty.*

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<sup>2</sup> The required filing date is no later than 30 days after a facility meets the registration requirements or experiences a change in hazardous inventory that upgrades the facility's classification.

*OEMHS will develop criteria in-line with other county programs to further define undue hardship and ensure the county takes a consistent approach when defining “undue hardship.”*

*Severe weather has disrupted county infrastructure in the past. In 2010 many businesses lost power for about a week just prior to the registration date. The OEMHS Manager would like flexibility to delay a registration due date if an event disrupted an organization’s ability to file on time.*

*This language is consistent with the waiver section in the Fire Service Code. While OEMHS has not been presented with a reason to waive a fee for a public interest reason, it does not mean this occurrence may not present itself in the future.*

**Council Staff concurs with this new waiver language given that it codifies current practices and that OEMHS will develop criteria to ensure the waiver process is managed fairly and equitably.**

### **Other Issues**

#### **1. Basic Fees**

As mentioned earlier, the regulation does not increase the basic fees (initial or annual). Given the existing regulation was adopted in 2003, the current fees are over nine years old. Many County fees are increased every year, either by regulation, resolution, or automatic indexing.

However, the hazardous materials use permit fees are unique in that no other jurisdiction in the region or in the State of Maryland imposes such a fee. Also, while Federal law requires that hazardous materials information be provided to local jurisdictions, Montgomery County’s regulation provides lower threshold levels of hazardous materials that must be reported.

Council Staff asked OEMHS to provide information regarding the program costs incurred to manage this permitting effort to see how the permit fees compare to program costs.

*The FY12 operating budget for hazmat permitting under the Office of Emergency Management and Homeland Security is \$111,846.56 with \$96,667.56 allocated to Personnel Costs and \$15,180 allocated to Operating Costs.*

*The Hazmat Permitting Program supports FRS by providing first responders with critical information regarding the locations where hazardous materials are being used, processed, transferred, stored or manufactured so they are aware and prepared for potential danger during a response to or near these facilities. FRS has four units working 24/7 to respond to hazmat incidents with a total personnel cost of approximately \$8,718,830. Of this number, \$129,322 is budgeted Hazmat salary differential, \$598,170 is Hazmat training costs, and \$89,072 is annual operating costs, for a total FRS cost of \$816,564.*

*Combined OEMHS and FRS Expenses: Combining OEMHS’ operating expenses of \$111,846.56 with FRS’ operating expenses of \$816,564, the total estimated expenses are*

*\$928,410.56. This estimate does not include FRS' estimated Code Enforcement costs of \$1,941,420.*

The permit fees are estimated to raise \$750,000 in FY12 and \$800,000 in FY13. While this amount is somewhat below the totals identified by OEMHS above for Hazmat specific costs in OEMHS and FRS, the numbers are well above OEMHS' administrative costs of managing the hazmat registration effort.

**The existing fees already raise a substantial proportion (but not all) of the direct hazmat costs identified in OEMHS and FRS. However, the fact that charging any fee at all is unique to the region and the State is an important consideration as well. Council Staff believes the issue of raising the basic fees (and perhaps including an automatic escalator) should be further studied by the Executive and changes considered in the future.**

## **2. Classification of Facilities**

As noted earlier, the Council received one letter (attached on ©25) that advocates raising the hazardous materials threshold for "General Use" facilities. The letter cites changes in the auto repair industry that have resulted in the required storage of more automotive fluids, causing these facilities to be categorized as "High Use" facilities with correspondingly higher fees than for "General Use" facilities. Specifically, the 2,000 pound or 220 gallon limit for "General Use" facilities equates to four standard 55 gallon drums. The letter writer notes the variety of fluids that now must be stocked by auto service facilities and that the current limits are out of date. He suggests an increase in the "General Use" threshold to the equivalent of six 55 gallon drums.

The different fees for "High Use" and "General Use" are presented in Section IV(a)(1 and 2) of ER 3-12. The initial fee is \$400 higher and the annual fee is \$150 higher.

Other than the battery backup issue discussed earlier, ER 3-12 does not change the facility categorizations currently in place. In fact, these existing categorizations are similar to what was in place when ER 19-93AM was approved by the Council back in December 1993.

OEMHS staff will be available at the Committee meeting to discuss the various categorizations and whether changes in various industries, such as those mentioned by the letter writer, warrant a revisiting of the facility designations.

**While Council Staff is sympathetic to the conditions cited by the letter writer, the threshold limits in the regulation were established for public safety reasons, and any changes to those limits should be based on an assessment of the public safety risk. As mentioned earlier, an assessment of the appropriate fee schedule for each facility classification can also be considered in the future.**

### 3. Corrections

Council Staff recommends the following technical edits to ER 3-12 to clarify the intent of the regulation text:

- Throughout Section III(b), “**Classification of facilities**”, change the classification titles from plural to singular (e.g., “SARA Facilities” becomes “SARA Facility”).
- Insert the word “or” at the end of the sentence in Section III(b)(2)(B) to clarify that if any of the three conditions noted in (A), (B) and (C) in that section are met, then a facility is classified as a “High Use” facility.
- Insert the words “That includes ” at the beginning of the paragraph in Section III(b)(2)(C).
- Move the paragraph in Section III(b)(3)(E) up to paragraph (C). Re-alphabetize the paragraphs that immediately follow accordingly.
- Insert the word “or” at the end of the sentence in Section III(b)(3)(B) to clarify that if any of the three conditions noted in (A), (B) and (C) in that section are met, then a facility is classified as a “General Use” facility.
- Insert the words “That includes ” at the beginning of the paragraph in Section III(b)(3)(C).
- After Section III(b)(3)(C), insert the phrase: “A **General Use Facility** also includes:”
- Remove the word “or” after the paragraph in Section III(b)(4)(B).
- After Section III(b)(4)(B), insert the phrase: “A **Light Use Facility** also includes:”

#### **Summary of Council Staff Recommendations**

**Council Staff is supportive of Executive Regulation 3-12, with the technical edits described above.**

**Council Staff recommends that the Executive submit an amended Executive Regulation that includes the technical edits suggested by Council Staff.**

#### Attachments

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OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

April 16, 2012

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

2012 APR 17 11:12:59

To: Roger Berliner, President  
Montgomery County Council

From: Isiah Leggett, County Executive

Subject: Proposed Executive Regulation 3-12  
Hazardous Materials Use Permit – Method 2

The purpose of this memorandum is to submit for approval proposed Executive Regulation 3-12 Hazardous Materials Use Permit – Method 2 which will replace Executive Regulation 17-03 Hazardous Materials Use Permit. This regulation requires all industrial, commercial, educational, recreational, agricultural, research, or institutional occupancy which uses, processes, stores, transfers or manufactures hazardous substances, in quantities which pose a risk to first responders or the surrounding community to inform the County what is being stored. The regulation requires the owner/operator of that facility to pay an annual registration fee based on the “facility category” which is determined by the amount and types of chemicals being stored at a facility. This updated regulation, which is expected to be cost neutral, increases late fees for facilities which do not register by established deadlines in the regulation, allows the County to charge facility owners an hourly rate when they request a “sit-down” appointment with the County officials to assist them in completing the online hazardous material reporting documentation, and it adds a category for “safer” battery power supply systems with a registration fee lower than the previous regulation.

A settlement in 2010 between the County and T-mobile resulted in a review of the County regulation regarding battery backup supply systems; however, a change is only being requested for owner/operators which make the investment in safer technologies. With different battery power supply systems available, we believe reducing the registration fee for facilities which make the decision to use the safer and often more expensive battery supply systems will result in a reduced risk of a hazardous material incident in the county.

The stakeholders with the greatest potential to benefit are the owner/operators of cell phone towers in the County. Each of the over 500 towers is required to have battery backup power and the chemicals in those batteries has resulted in the County collecting a registration fee

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Roger Berliner, Council President  
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April 16, 2012

for every site. These stakeholders could be positively impacted by the regulation because it would reduce their registration fees if they choose to use the safer battery power supply system.

Executive Regulation 3-12 was advertised in the February 1, 2012, Montgomery County Register. The Office of Emergency Management and Homeland Security did not receive any comments on the proposed regulation. If you have any questions or need additional information please call Debbie Greenwell at 240-777-2201.

IL / dag  
Attachment

# MEMORANDUM

Office of Management and Budget

March 15, 2012

**To:** Jennifer Hughes, Director  
**Via:** Alex Espinosa, Budget Manager *AS*  
**From:** Adam Damin, Management and Budget Specialist *AD*  
**Subject:** OMB Review and Sign Off on Executive Regulation 3-12,  
Hazardous Materials Use Permit Change

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**Comments:**

- The office of Emergency Management and Homeland Security has submitted the Executive Regulation 3-12, Hazardous Materials Use Permit for the Executive's approval.
- The Fiscal Impact Statement was completed in January. This regulation change can potentially increase revenue but also decrease revenue if more companies apply for the new permit.

**Recommendation:**

Approve



OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett  
County Executive

Jennifer A. Hughes  
Director

MEMORANDUM

January 12, 2012

TO: Jennifer Hughes, Director  
Office of Management and Budget

FROM: Adam Damin, Management and Budget Specialist *AD*

SUBJECT: Executive Regulation <sup>312</sup>20-11, Hazardous Materials Use Permit

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Attached is the fiscal impact statement for Executive Regulation 20-11,  
Hazardous Materials Use Permit.

AD:ad

c: Kathleen Boucher, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Chris Voss, Director, Office of Emergency Management and Homeland Security  
Jennifer Shahabuddin, Office of Emergency Management and Homeland Security  
Debbie Greenwell, Office of Emergency Management and Homeland Security  
Michael A. Donahue, Assistant Chief, Fire and Rescue Service  
Naeem Mia, Office of Management and Budget

Office of the Director

101 Monroe Street, 14th Floor • Rockville, Maryland 20850 • 240-777-2800  
www.montgomerycountymd.gov

<sup>3-12</sup>  
**Fiscal Impact Statement**  
**Executive Regulation 20-11: Amendment to Hazardous Materials Use Permit**

1. Regulation Summary

The amendment to this Executive Regulation would establish changes to the hazardous materials reporting categories and registration fees for regulated facilities with hazardous substances. Under the section classifying facilities under particular reporting categories and fee structures, the amendment would add a category for safer, but more expensive Uninterruptible Power Supply (UPS) systems. Facilities that switch to using these safer systems would be classified in a category with a lower fee. Additionally, a new fee for consultation and assistance in submitting the online permit application has been included, as well as an additional category for delinquent payments. Finally, the proposed regulation permits the Office of Emergency Management and Homeland Security to waive or reduce any fee required in the regulation under certain conditions. These fees have been added to encourage facilities to remain current with County requirements.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The current annual estimate of hazardous material permit fees is \$710,000. A precise estimate of changes in revenue is difficult to calculate because the effect of these changes on facility registration cannot be determined with specificity. The proposed changes may improve compliance, which would positively affect revenue collection. The waiver provision may reduce revenue depending on its frequency.

Each proposed change has a different effect on revenue collection. The change related to UPS systems could encourage some facilities to switch to safer systems that would result in them being classified in a category with a lower registration fee. It is not possible to predict how many facilities would change UPS systems, but if every facility in a higher fee category changes UPS systems and is classified in a lower fee category, revenue would decrease by \$139,350.

Offsetting this potential reduction in revenue is the potential increase in revenue related to the new fees for consultation and delinquent accounts. The new fee for consultation and assistance could increase revenue by \$62,400 assuming six two-hour appointments per week on an annual basis. The regulation adds an additional fee category for delinquent accounts of 180 days at 100 percent of the original fee. This could increase annual revenue by \$97,500 assuming the number of delinquent accounts remains constant.

The County will incur one-time programming costs up to an estimated \$12,000 to implement the proposed changes to the regulation.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Revenues could increase by as much as \$159,900 annually or \$959,400 over six years, if there is no change in the number of delinquent accounts and facilities pay to use the consultant assistance offered by the County. On the other hand, revenues could decrease by as much as \$139,350 annually or \$836,100 over six years, if facilities change to safer

UPS systems and the new delinquent fee category encourages facilities to remain current in their registrations with the County.

The County would incur one-time programming costs up to \$12,000.

4. An actuarial analysis through the entire amortization period that would affect retiree pension or group insurance costs.

Not applicable.

5. Later actions that may affect future revenue and expenditures if the regulation authorizes future spending.

The amendment to the regulation does not authorize future spending.

6. An estimate of the staff time needed to implement the regulation.

Incorporating the changes to the regulation into the on-line hazardous materials permitting system will take approximately 5 hours of staff time to meet with and communicate back and forth with the programming contractors who will program the changes into the system.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

There will be no new staff responsibilities.

8. An estimate of costs when an additional appropriation is needed.

An additional appropriation will not be needed.

9. A description of any variable that could affect revenue and cost estimates.

- The number of regulated facilities that switch UPS systems. The amendment offers regulated facilities the opportunity to qualify for a registration category with a lower fee than they currently pay by moving to a safer type of battery, which is what the County is trying to encourage. These safer batteries reduce the risk of serious hazardous materials incidents in the county. There is no way to determine how many of these facilities will actually switch to the safer UPS system and pay the lower fee. All facilities could switch, which would result in the greatest decrease in revenue, or no facilities could switch, which would result in no change in revenue. The most likely outcome is something in between with change occurring gradually over time.
- Consultant assistance. The proposed regulation includes a new fee of \$100 per hour charged to facilities that use the County's assistance in submitting the on-line permit application. The effect on revenue would depend on how often this assistance is utilized by regulated facilities.
- Delinquent accounts. The proposed regulation includes a new fee category for delinquent accounts of 180 days at 100 percent of the original filing fee. The effect on revenue of this change depends on the extent to which it encourages regulated facilities to remain current with in their registrations with the County.
- Cost of programming changes. Incorporating the new regulation changes into the hazardous materials program's on-line permitting system will require an estimated one-time of expenditure of \$12,000 for programming services. However, the actual number of hours it will take to perform the programming services may be different than assumed.

- Fee waiver. The amendment would allow the Office of Emergency Management and Homeland Security the option to waive or reduce a regulated facility's fee under specific circumstances. If this option is exercised, revenues would decrease, but it is not expected that this option would be exercised often enough to have a significant effect.

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

See responses to #2 and #3 above. The decrease in revenue could range from \$0 to as much as \$139,350. The increase in revenue could range from \$0 to as much as \$159,900. The one-time cost to modify the on-line permitting system could be as much as \$12,000.

11. If a regulation is likely to have no fiscal impact, why that is the case.

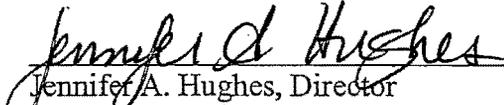
Not applicable.

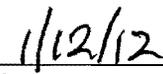
12. Other fiscal impacts or comments.

Not applicable.

13. The following contributed to and concurred with this analysis:

Jennifer Shahabuddin and Debbie Greenwell, Office of Emergency Management and Homeland Security; Assistant Chief Michael A. Donahue, Fire and Rescue Service; and Adam Damin, Office of Management and Budget.

  
\_\_\_\_\_  
Jennifer A. Hughes, Director  
Office of Management and Budget

  
\_\_\_\_\_  
Date



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

**COPY**

<b>Subject</b>	HAZARDOUS MATERIALS USE PERMIT	<b>Number</b>	3-12
<b>Originating Department</b>	FIRE AND RESCUE SERVICE	<b>Effective Date</b>	

Montgomery County Regulations on:  
Facilities Using, Processing, Transferring,  
Storing or Manufacturing Hazardous Substances

### FEE SCHEDULE FOR REGISTRATION, PERMITS & EXCEPTIONS MONTGOMERY COUNTY FIRE AND RESCUE SERVICE

Issued by: County Executive  
Regulation No: 3-12

Authority: Code Section 22-13  
Supersedes: Executive Regulation 17-03  
Council Review: Method (2) under Code Section 2A-15  
Register: Vol. 29, Issue No. 2  
Comment Deadline: March 1, 2012

Effective date:

**SUMMARY:** The proposed amendments establish changes and/or additions to definitions, reporting categories, reporting thresholds, and registration fees for regulated facilities with hazardous substances.

**ADDRESSES:** Montgomery County Fire and Rescue Service  
100 Maryland Avenue, Room 121  
Rockville, Maryland 20850

**STAFF CONTACT:** Office of Emergency Management and Homeland Security  
P.O. Box 4117  
Gaithersburg, Maryland 20878  
240-777-2300



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

**COPY**

<b>Subject</b> HAZARDOUS MATERIALS USE PERMIT	<b>Number</b> 3-12
<b>Originating Department</b> FIRE AND RESCUE SERVICE	<b>Effective Date</b>

## Sec. I Statement of Purpose.

These regulations augment existing state and federal Community Right-to Know reporting and emergency planning requirements set out in Sec 6-501 et. seq., and Sec. 7-101 et seq., of the Environment Article of the Annotated Code of Maryland (1987 volume as amended), and Subtitle 5, Sec. 22-501, et. seq. of the Health-General Volume of the Annotated Code of Maryland (1990 Replacement volume as amended), and Sections 301-304, 311, and 312 of the federal Superfund Amendments and Reauthorization Act of 1986, also known as the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), Pub. L. 99-499, 100 Stat. 1613 (1986). These regulations require all facilities using, processing, transferring, storing, or manufacturing hazardous substances that exceed a minimum threshold level to report these substances and their locations, develop contingency plans in the event of accidental release, and provide these plans to the Office of Emergency Management and Homeland Security [Division of Fire and Rescue Services] on behalf of the Local Emergency Planning Council. Revisions to this Regulation may be made using Method 2, in accordance with Chapter 22 of the Montgomery County Fire Code.

## Sec. II Definitions.

- (a) **Corporate responsible officer.**<sup>1</sup> The term "corporate responsible officer" means that individual of a regulated facility who is responsible for ensuring compliance with the applicable federal, state, and local hazardous or toxic substance control laws and regulations including reporting requirements.
- (b) **EPCRA.** Title III of the Superfund Amendments and Reauthorization Act of 1986, also known as the Emergency Planning and Community Right-to-Know Act of 1986.
- (c) **Extremely Hazardous Substances.** The term "extremely hazardous substance" means any substance listed in Appendices A and B of Title 40 of the Code of Federal Regulations, Part 355 (40 CFR § 355), *Emergency Planning and Notification*, as published in the U.S. Environmental Protection Agency "Title III List of Lists, Consolidated List of Chemicals Subject to Reporting Under the Emergency Planning and Community Right-to-Know Act, as amended.

<sup>1</sup> The corporate responsible officer (CRO) concept has gained wide-spread acceptance in hazardous materials and hazardous waste regulatory enforcement. The purpose is to specifically identify the person responsible for ensuring compliance. The CRO may designate an individual(s) who is (are) responsible for implementation and compliance on site.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

**COPY**

<b>Subject</b>	HAZARDOUS MATERIALS USE PERMIT	<b>Number</b>	3-12
<b>Originating Department</b>	FIRE AND RESCUE SERVICE	<b>Effective Date</b>	

- (d) **Facility.**<sup>2</sup> The term "facility" includes, but is not limited to:
  - (1) Any single industrial, commercial, educational, recreational<sup>3</sup>, agricultural, research, or institutional occupancy;
  - (2) Located within a contiguous boundary; or
  - (3) Confined to a single detached structure.
- (e) **Facility Emergency Coordinator.** The term "facility emergency coordinator" (FEC) means a designated employee of a regulated facility who is responsible for maintaining a working knowledge of the site, building, and chemicals or hazardous substances stored on site, is the primary contact for emergency services, including Fire Departments and Police, and the Office of Emergency Management and Homeland Security during emergency communications with the facility, is responsible for ensuring compliance with applicable federal, state, and local hazardous or toxic substance control laws and regulations, and is subject to In personam process within the State of Maryland.
- (f) **Fire Administrator.** The non-uniformed department head of the Montgomery County Fire and Rescue Service.
- (g) **General Use Facility.** The term "General Use Facility" includes any facility which uses, processes, stores, transfers, or manufactures one or more extremely hazardous substances or hazardous substances, in quantities set out in this regulation, as to generally pose a risk of injury to emergency responders or the surrounding community.
- (h) **Hazardous inventory.** The term "hazardous inventory" means the quantity of hazardous substances or extremely hazardous substances used, processed, transferred, stored, or manufactured and present at any time in a facility.
- (i) **Hazardous substances.**<sup>4</sup> The term "hazardous substance" means:

<sup>2</sup> The intent of the definition is to require separate reporting and planning from the various occupancies within a single large building. Where several buildings exist on a single property, each would require a separate report and plan.

<sup>3</sup> Hazardous substances utilized in the operation of public swimming pools, as defined by Montgomery County Swimming Pool Executive Regulation 62-91 AM, Manual on Public Swimming Pool Operation (effective April 23, 1992), are subject to regulation.

<sup>4</sup> For the purposes of this regulation, the term "hazardous substance" includes biochemical hazards, etiologic agents and radionuclides.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

**COPY**

<b>Subject</b>	HAZARDOUS MATERIALS USE PERMIT	<b>Number</b>	3-12
<b>Originating Department</b>	FIRE AND RESCUE SERVICE	<b>Effective Date</b>	

- (1) any substance that:
  - (A) conveys toxic or lethal effects, or may otherwise injure human, plant, animal, or aquatic life, or persists in the environment;
  - (B) is capable of causing cancer (carcinogen), chromosomal alterations (mutagen), fetal abnormality (teratogen), or allergic reaction (allergen or sensitizer); or
  - (C) any matter that is designated as an explosive material; radioactive material; etiological agent<sup>5</sup>; flammable gas, liquid or solid; combustible liquid or solid; compressed gas; or cryogenic<sup>6</sup> liquid or solid; and
- (2) includes any matter identified as a hazardous waste by the United States Environmental Protection Agency or Maryland State Department of the Environment (excluding waste motor oil).
- (3) Includes any matter identified as a hazardous substance under Article 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.
- (4) Includes any substance defined as a toxic material in Subpart Z of the U.S. Occupational Safety and Health Administration regulations published in 29 CFR 1910, "General Industrial Standards," 1970, as amended, or by the Maryland Occupational Safety and Health Administration.
- (j) **High Use Facility.** The term "High Use Facility" includes any facility which uses, processes, stores, transfers, or manufactures one or more extremely hazardous substances or hazardous substances as defined in Sec II(i), in quantities set out in this regulation, as to pose significant risk of injury to emergency responders or the surrounding community.
- (k) **LEPC.** The Montgomery County Local Emergency Planning Council for Hazardous Materials.
- (l) **Light Use Facility.** The term "Light Use Facility" includes any facility which uses, processes, stores, transfers or manufactures one more hazardous substances, in quantities set out in this regulation, as to pose a recognized limited risk of injury to emergency responders or the surrounding community.

<sup>5</sup> Any microorganism capable of producing an infectious disease in a human, animal, or plant.

<sup>6</sup> Any supercooled liquid or solid.



# MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

**COPY**

<b>Subject</b>	HAZARDOUS MATERIALS USE PERMIT	<b>Number</b>	3-12
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(m) **OEMHS Manager.** The non-uniformed department head of the Montgomery County Office of Emergency Management and Homeland Security.

[(m)](n) **SARA Facility.** The term "SARA Facility" means any facility which is subject to the emergency planning and reporting requirements of the federal Superfund Amendments and Reauthorization Act of 1986, also known as the Emergency Planning and Community Right-to-Know Act of 1986 (Title III of the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499).

[(n)](o) **Threshold Planning Quantity (TPQ).** The term "Threshold Planning Quantity" means that quantity of a hazardous substance which subjects the facility to the reporting requirements of the Superfund Amendments and Reauthorization Act of 1986. (Pub. L. 99-499). The extremely hazardous substances and their TPQs are listed in 40 CFR § 355, Appendices A and B.

### Sec. III Registration and Exemptions.

The following schedule of reporting and planning requirements is hereby adopted, pursuant to the authority contained in Chapter 22, Montgomery County Fire Safety Code, of the Montgomery County Code, 1984, as amended.

(a) **Registration.** Regardless of exemption from federal reporting requirements under the federal EPCRA, the occupant of any facility which uses, processes, transfers, stores, or manufactures one or more hazardous substances and falls within one of the facility classifications below must annually register the facility with the Office of Emergency Management and Homeland Security, [Division of Fire and Rescue Services] and Homeland Security.

(1) The Corporate Responsible Officer must register a regulated facility within 30 days of:

(A) meeting the registration requirement, regardless of facility classification; or

(B) any change in hazardous inventory which upgrades facility classification.

(2) The Corporate Responsible Officer of a regulated facility must notify the Office of Emergency Management and Homeland Security within 90 days of any significant change in hazardous inventory which downgrades a facility classification.

(3) Facility registration is current for one year from the date of registration with the Office of Emergency Management and Homeland Security. However, if under Section III(e)(4), the Office of Emergency Management and Homeland Security adjusts the annual



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registration date, facility registration will remain current until the assigned registration date.

- (4) New facilities must register with the Office of Emergency Management and Homeland Security within 30 days from the date of issuance of their occupancy certificate.
  - (5) The certificate of registration issued by the Administrator must be conspicuously displayed at the regulated facility.
- (b) **Classification of facilities.** For the purpose of this regulation, all facilities which use, process, transfer, store, or manufacture hazardous substances or extremely hazardous substances are classified according to the criteria below:
- (1) **SARA Facilities.** Any facility subject to the reporting and planning requirements of EPCRA.
  - (2) **High Use Facilities.** Any facility that has a hazardous inventory at any time during the year.
    - (A) Equal to or greater than 2000 pounds or 220<sup>7</sup> gallons aggregate quantity of hazardous substances, but less than the reporting requirements of EPCRA; or
    - (B) Equal to or greater than 10 pounds, of any single extremely hazardous substance as published in 40 CFR § 355 (but less than the TPQ for reporting as a SARA facility).
    - (C) Uninterruptible Power Supply (UPS) systems equal to or greater than 10 pounds, of any single extremely hazardous substance as published in 40 CFR § 355 (but less than the TPQ for reporting as a SARA facility) which utilizes Flooded Lead Acid Batteries. See Section III (b) (3) (E) for UPS systems utilizing Valve Regulated Lead Acid (VRLA) batteries where the electrolyte is suspended in either a gel or a fiberglass-mat.
  - (3) **General Use Facilities.** Any facility that has a hazardous inventory at any time during the year:

<sup>7</sup> The 2,000 pound or 220 gallon limit was chosen as the approximate weight/volume of four "standard" 55-gallon drums. A discussion of reporting limits is contained in the Federal Register published on October 15, 1987, 52 Fed. Reg. 33351.



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(A) Less than 2000 pounds or 220 gallons aggregate quantity of hazardous substances, but equal to or greater than 500 pounds or 55 gallons aggregate; or

(B) Greater than 2 pounds and less than 10 pounds (but less than the TPQ for reporting as a SARA facility) of any single extremely hazardous substance as published in 40 CFR § 355.

(C) Facilities dispensing fuels to the general public from underground tanks, without vehicle servicing or repair capabilities are classified as General Use. Permanent above ground storage tanks installed in accordance with NFPA 30, "Flammable and Combustible Liquids Code", and approved by the Assistant State Fire Marshal for Montgomery County, are classified as General Use.

(D) Laboratories, including but not limited to medical, school, research, and commercial facilities, under the direct supervision of a technically qualified individual, regardless of inventory requirements as stated elsewhere in this regulation, are classified as General use, where inventory of:

(1) any single hazardous substance is equal to or greater than 5 pounds or 1 gallon, or

(2) any single extremely hazardous substance, as published in 40 CFR § 355, is greater than 1 pound.

(E) Uninterruptible Power Supply systems equal to or greater than 10 pounds, of any single extremely hazardous substance as published in 40 CFR § 355 (but less than the TPQ for reporting as a SARA facility) which utilizes Valve Regulated Lead Acid (VRLA) batteries where the electrolyte must be suspended in either a gel or a fiberglass-mat. See Section III (b) (2) (C) for UPS systems utilizing Flooded Lead Acid Batteries.

(4) **Light Use Facilities.** Any facility that has a hazardous inventory at any time during the year:

(A) Equal to or greater than 50 pounds or 5 gallons aggregate quantity of hazardous substances, but less than the reporting threshold of a General Use Facility, or

(B) Equal to or greater than 1 pound, and less than 2 pounds of any single extremely hazardous substance as published in 40 CFR § 355 (but less than the TPQ for



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reporting as a SARA facility), or

- (C) Laboratories, including but not limited to medical, school, research, and commercial facilities, under the direct supervision of a technically qualified individual, are classified as Light Use, where any single extremely hazardous substance, as published in 40 CFR § 355, does not exceed 1 pound.
- (5) **Exempt Facilities.** The following facilities or substances are exempt for the purposes of this regulation:
  - (A) Privately held farms defined as follows: a tract of land, with or without associated buildings, that is devoted to agriculture, i.e., the science or art of cultivating and managing the soil, growing and harvesting crops and other plants, forestry, horticulture, hydroponics, breeding or raising livestock, poultry, fish, game, and fur-bearing animals, dairying, beekeeping, and similar activities, but does not include cooperatives, nurseries, agricultural supply houses, and like commercial establishments.
  - (B) Any facility storing any prepackaged substance to the extent it is used in routine agriculture or any fertilizer prepackaged for household use and held for sale by a retailer to the ultimate consumer.
  - (C) Private domiciles<sup>8</sup>.
  - (D) Any facility owned, leased, or in space within a facility controlled by the federal government or the State of Maryland. For the safety and welfare of emergency response personnel, it is highly recommended that exempt governmental facilities be encouraged to voluntarily provide the requested information, where security is not at issue.
  - (E) Any substance that is a food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration (FDA). With regard to food additives, a chemical is a food additive only when in use as a food additive, and not when it is stored or used for other purposes, or is being sold to another business for use as a food additive.
  - (F) Any substance present as a solid in any manufactured item to the extent exposure to that substance does not occur under normal conditions of use.

<sup>8</sup> Hazardous substances present within the confines of a single family occupancy are not regulated.



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(G) Any substance to the extent it is used for normal personal, family, or household purposes, or [if] is present in the same [packaging,] container [form] and concentration and is labeled as a product [packaged] for distribution [to and use by the general public. Packaging, not use, triggers the exemption. Regardless of actual use and intended distribution, if the substance is packaged in the same way and in the same concentration as it is when used by the general public, then that substance is exempt] and use for personal, family, or household purposes.

(c) **Information requirements.** The Corporate Responsible Officer is required to provide to the Office of Emergency Management and Homeland Security, [Division of Fire and Rescue Services,] on behalf of the LEPC, the following information at the time of registration, unless otherwise specified in this regulation:

- (1) **Business or corporation name.** The legal corporate title of the regulated facility, the common name of the business, the name of the owner, and the employer identification number (federal tax number).
- (2) **Facility address.** The actual address at which the regulated facility is located, including street numbers, street name, nearest cross-street, city, and zip code.
- (3) **Corporate Responsible Officer (CRO).** The CRO is the primary contact for the Office of Emergency Management and Homeland Security during non-emergency communications with the facility. A contact address, if different from the facility address, daytime telephone number, evening telephone number, and official company title must be provided. The person appointed CRO must be clearly identified. Any change in the CRO must be forwarded to the Office of Emergency Management and Homeland Security within 30 days of the change.
- (4) **Facility Emergency Coordinator (FEC).** The FEC is the primary contact for the Office of Emergency Management and Homeland Security during emergency communications with the facility. A contact address within the state, if different from the facility address, daytime telephone number, evening telephone number, and official company title must be provided. The person appointed FEC must be clearly identified. Any change in the FEC must be forwarded to the Office of Emergency Management and Homeland Security within 30 days of the change.
- (5) **Twenty-four hour emergency telephone number.** This emergency phone number must provide direct contact on a 24 hour basis with the Facility Emergency Coordinator or designee with specific knowledge of the hazards present.



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- (6) **Hazardous Substances Inventory<sup>9</sup>**. The listing and designation of quantities of hazardous substances must be arranged alphabetically by product name or chemical name in accordance with the requirements of Section III(b). Where a product name does not exist, the substance must be listed by generic name<sup>10</sup>.
- (7) **Hazardous substance data location**. The location of Material Safety Data Sheets (MSDS) or hazardous waste manifests within the facility must be provided. MSDS and hazardous waste disposal records must be kept in a location clearly identified, and easily accessible to emergency service personnel and employees.
- (8) **Emergency notifications**. The Facility Emergency Coordinator must certify that the applicant has an emergency notification plan for employees, other occupants of the building, and the adjacent community, if an accidental release or spill occurs<sup>11</sup>.
- (9) **SIC**. The Standard Industrial Code assigned by the United States Chamber of Commerce.
- (10) **Number of Employees**. Number of full-time employees for the purpose of reporting under EPCRA.

(d) **Supplemental requirements**. Only those facilities classified as General use facilities, High use facilities, or SARA facilities are required to submit supplemental information and diagrams under this section of the regulation. Filing requirements of this section of the regulation are intended to meet the reporting requirements for EPCRA facilities under federal regulations.

- (1) **Hazardous substance location**. The room or specific location within the building or on the grounds must be identified along with the quantity of hazardous substances and extremely hazardous substances.
  - (A) For the purposes of this section, the most recently submitted Tier II reporting

<sup>9</sup> Quantities are not required for etiological agents. Quantities of radioactive materials must be given in units of Curies or decimal fraction thereof.

<sup>10</sup> A hazardous substances inventory may be compiled in accordance with the hazard analysis methodologies described in 29 CFR 1919.119, "Process Safety Management of Highly Hazardous Chemicals".

<sup>11</sup> Notification to Montgomery County 9-1-1, county agencies or Departments of a release of a hazardous or extremely hazardous substance does not relieve the Corporate Responsible Officer of other required notifications under applicable state and federal laws.



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forms are acceptable. However, for each substance listed, a notation indicating the type and size of a typical container must be provided.

(B) If Tier II forms are not used to fulfill the requirements of this section, then an alphabetical listing of substances by product name or chemical name must be provided and include the chemical abstract service number, physical and health hazards, inventory amount, storage location, and typical container type and size.

(2) **Facility diagram.** An accurate, clear and legible facility diagram must be provided in 8 1/2 inch by 11 inch format. Where necessary to maintain clarity, the diagram may be broken out onto several pages. The scale of the diagram must be provided. The diagram must indicate, at a minimum:

- (A) The location of substances by name or storage code;
- (B) Access and egress points;
- (C) Automatic fire alarm and extinguishing systems, fire protection systems, or other control system locations and control rooms;
- (D) Unusual facility hazards; and
- (E) Immediate facility exposures (adjacent properties).

(3) A facility may request a waiver of part, or all of the supplemental information requirements. The applicant must justify the need because of special security or safety requirements. The request for a waiver must be submitted in writing to [the Fire Administrator] OEMHS Manager. [, Montgomery County Fire and Rescue Service.] The request must include documentation on how this information would be made available to authorized County officials and emergency response personnel in both emergency and non-emergency situations.

(e) **Application submittal and review.**

(1) Application with accompanying appropriate fee must be submitted to the Office of Emergency Management and Homeland Security at the time of registration. Thereafter, application and appropriate fee must be submitted:

- (A) Annually;
- (B) As assigned; or



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- (C) With any change in hazardous inventory which would change the facility classification.
- (2) The Office of Emergency Management and Homeland Security must review and give timely notice to the submitting facility of application acceptance, or request revision or clarification.
  - (A) Applications that are returned to the submitting facility must be accompanied by a statement indicating revisions or clarifications needed.
  - (B) Applications returned to a facility for revision or clarification must be resubmitted to the Office of Emergency Management and Homeland Security within 30 days of receipt by the facility.
- (3) The time period for submitting an application under this regulation may be extended for cause at the discretion of the OEMHS Manager. [Fire Administrator.] Requests for an extension must be:
  - (A) Made on company letterhead or, where no letterhead exists, must be notarized by a certified notary public;
  - (B) Signed by the CRO; and
  - (C) Received in the Office of Emergency Management and Homeland Security no later than 14 days prior to the time for application submittal.
  - (D) If the extension is denied, the [Fire Administrator] OEMHS Manager must provide written explanation to the CRO for such denial.
- (4) The Office of Emergency Management and Homeland Security may schedule annual application submittal dates.<sup>12</sup>
- (5) Where no significant changes in inventory or facility have occurred, a facility may meet annual application submittal requirements by certifying that the existing information on the renewal application is correct and accurate, and that there are no changes, signing and dating where indicated, and submitting the appropriate fee.

<sup>12</sup> The purpose behind allowing the scheduling of renewal dates is to permit a balancing of work load.



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## Sec. IV Fee schedule.

The following schedule and accompanying fees is hereby adopted, pursuant to the authority contained in Chapter 22, Montgomery County Fire Safety Code, of the Montgomery County Code, 1984, as amended. Fees included are for program administration, registration, application review, and inspection(s).

(a) **Basic fees.** Fees required by this section must be paid by the Corporate Responsible Officer on behalf of the regulated facility at the time of facility registration.

- (1) Light Use Facility.
  - (A) Initial registration fee . . . . . \$175
  - (B) Annual registration fee . . . . . \$100
  - (C) Seasonal pools annual registration (open less than 120 consecutive days) \$ 50
  - (D) Pools (open 120 days or more per year) \$100
  
- (2) General Use Facility.
  - (A) Initial registration fee . . . . . \$400
  - (B) Annual registration fee . . . . . \$250
  - (C) Seasonal pools annual registration (open less than 120 consecutive days) \$115
  - (D) Pools (open 120 days or more per year) \$250
  
- (3) High Use Facility.
  - (A) Initial registration fee . . . . . \$800
  - (B) Annual registration fee . . . . . \$400
  - (C) Seasonal pools annual registration \$185



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(open less than 120 consecutive days)

(D) Pools (open 120 days or more per year) \$400

(4) SARA Facility

(A) Initial registration fee . . . . . \$1500

(B) Annual registration fee. . . . . \$1000

(C) Seasonal pools annual registration \$225  
(open less than 120 consecutive days)

(D) Pools (open 120 days or more per year) \$1000

(b) **Miscellaneous fees.** Fees required by this section must be paid at the time of service.

(1) **Application review resubmittals and revision.**

(A) First resubmittal. . . . . included in original fee.

(B) Each subsequent resubmittal as shown below:

Light use facility. . . . . \$ 50

General use facility . . . . . \$100

High use facility. . . . . \$150

SARA facility. . . . . \$200

(2) **Consultation Fee:** The fee for an appointment with the Hazmat Permitting Program Specialist is \$100.00 per hour. This fee will not be broken into hourly increments. The number of minutes will round up to the next highest hour for fee. For example 15 minutes will be charged a 1 hour fee (\$100.00) and 1 hour and 5 minutes will be charged a 2 hour fee (\$200.00).

[(2)](3) **Extensions.** The fee for a granted extension is \$50.00 if submitted within 30 days of the due date. Each additional month is an additional \$25, up to a maximum of the initial fee, per registration year. Fees must accompany the request. Fees for a granted extension are not refundable and are not considered as partial payment of required registration fees.



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[(3)](4) **Upgrade in facility classification.** When a facility is subject to the requirement of Section III(a)(1)(B), the balance of the initial registration fee for the new facility classification must be paid at the time the facility is registered under the new classification. However, if the upgrade in facility classification occurs within 90 days before the annual registration date, the balance of the initial registration fee for the new classification is waived until the annual registration date.

[(4)](5) **Late Registration.** A facility that fails to register as required under Section III(a)(1) or Section III(e)(1) will be subject to a late registration fee in addition to the basic fee, which must be paid at time of registration.

- (A) 30 days after the required filing date. . . 10% of the original filing fee in addition to the basic fee.
- (B) 60 days after the required filing date. . . 20% of the original filing fee in addition to the basic fee.
- (C) 90 days after the required filing date. . . 50% of the original filing fee in addition to the basic fee.
- (D) 180 days after the required filing date.. 100% of the original filing fee in addition to the basic fee.

(c) **Waiver.**

(1) The OEMHS Manager or the OEMHS Manager's designee may waive or reduce any fee required under this regulation if:

- (A) Payment of the fee would cause the applicant undue hardship; or
- (B) The fee is incurred because of circumstances beyond the applicant's control (for example, severe weather); or
- (C) It otherwise would be in the public interest to reduce or waive the fee.

(2) The OEMHS Manager's decision regarding any reduction or waiver of a fee is final.

**Sec. V Enforcement.**

The following rights of entry and penalties are established for the purposes of ensuring community and emergency responder safety, and compliance with this regulation.



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(a) **Right of Entry.** Pursuant to the authority contained in Title 40 of the Code of Federal Regulations, Part 370.25(d), and Section 22-7 of the Montgomery County Fire Safety Code, the following persons, after designation by the Fire Administrator, have right of entry to conduct facility familiarization and pre-emergency planning inspections, or compliance inspections, or both. The right of entry is concomitant with registering a facility with the Office of Emergency Management and Homeland Security.

- (1) The officers and official representatives of the Local Fire and Rescue Departments.
- (2) The officers and official representatives of the Montgomery County Hazardous Incident Response Team.
- (3) The officers and official representatives of the Montgomery County [Division of] Fire and Rescue [Services] Service and Division of Volunteer Fire and Rescue Services.
- (4) The official representatives of the Montgomery County Department of Environmental Protection.

(b) **Timing of inspections.** A routine inspection conducted under this regulation must be made during normal business hours at the discretion of the inspecting official. However, no advance notice of the inspection is required.

(c) **Violations and penalties.** Pursuant to the authority contained in Sections 1-19 and 1-20 of the Montgomery County Code, the following penalties are established. Each day a violation continues constitutes a separate offense. Violations of this regulation are subject to criminal and/or civil penalties. Violations and penalties contained in this regulation are in addition to any other violations and penalties that may apply under county, state, or federal laws.

- (1) **Registration/Planning/Denial of Entry.** Any violation of this regulation is a Class A violation as set out in the Montgomery County Code. Repeat violations or violations of any of the following may result in revocation of the certificate of registration for a period of one year, at the discretion of the Fire Administrator.
  - (A) Failure to register a facility
  - (B) Falsely registering a facility
  - (C) Failure to provide a plan
  - (D) Misstatements or omissions in a plan or application



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(E) Denying entry to authorized official

(d) **Right to Hearing**

- (1) Any Corporate Responsible Officer or regulated person aggrieved by a decision of the Fire Administrator or Fire Administrator's designee made under these regulations may appeal to a separate hearing officer appointed by the Administrator, who after hearing upon notice has the authority to affirm, modify or reverse the decision made.
- (2) A decision of the hearing officer may be appealed to the County Board of Appeals or, to a municipal Board of Appeals. The Appeals Board has the authority to affirm, modify or reverse the decision of the hearing officer.
- (3) Any appeal from the decision of the Fire Administrator, Fire Administrator's designee, or hearing officer must be made within 10 business days of receipt of official notice of the decision.
- (4) Any decision of the County Board of Appeals or municipal Board of Appeals may be appealed to a court of competent jurisdiction.

**Sec. VI Severability.**

If a court holds that any part of this regulation is invalid, such invalidity does not affect the remaining sections of this regulation.

**[Sec. VII Effective Date.**

These Executive Regulations will take effect 30 days after the date of adoption by the County Council.]

Isiah Leggett, County Executive

April 16, 2016  
Date

APPROVED AS TO FORM AND LEGALITY  
OFFICE OF THE COUNTY ATTORNEY  
BY:   
DATE: 3/29/12

*Exec Rep*

TKL

Gary C. Richard  
26819 Ridge Road  
Damascus, MD 20872  
301-253-2287

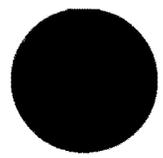
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COUNCIL

2012 ~~APR 31~~ <sup>May 1</sup> AM 8:47

April 30, 2012

Mr. Roger Berliner, President  
Montgomery County Council  
100 Maryland Ave. 5<sup>th</sup> Floor  
Rockville, Md. 20850

**068126**



Dear Mr. Berliner,

I am writing in reference to the Bill 3-12 Hazardous Materials Use Permit and the revisions that you and the council may consider. In a conversation with Keith Levchenko, I had suggested that the limit for a General Use Permit threshold be raised to possibly the equivalent of six 55 gallon drums instead of the current limit of four. In a conversation with a mechanic at a service facility, in today's auto repair market with all the makes and models out there, the various grades of automotive fluids are so diverse and numerous that the combination of inventory could exceed the existing threshold. The following is an example of automotive fluids needed to service the majority of vehicles.

- Anti Freeze: red, blue orange, green and yellow.
- Transfer Case Fluids: Auto Trak 2 (GM) Mopar MV 24
- Transmission Fluids: Dexron/Mercon, Merc 5 & 6, Honda and Universal Synthetic.
- Gear Oils: 75-90W, 75-140W and 80-90W
- Motor Oil (gas) 0-40W, 0-20W, 5-30W, 5-20W and 10-30W
- Motor Oil (diesel) 5-30W, 5-40W and 15-40W

As you can see there are so many specified required fluids that are specifically made for a particular make and model, that for operability and warranty reasons, one can't short cut or take chances of making a wrong choice. Therefore a repair facility has to stock a variety of fluids.

I would hope that you would consider raising the threshold for the General Use Permit to a higher level to accommodate today's market. This would mean changing the total to the equivalent of perhaps a six 55 gallon drum threshold.

Sincerely,  
*Gary C. Richard*  
Gary C. Richard

Cc: Keith Levchenko