

Resolution No.:	<u>17-509</u>
Introduced:	<u>July 24, 2012</u>
Adopted:	<u>July 24, 2012</u>

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY MARYLAND**

By: County Council

SUBJECT: Executive Regulation 3-12AM, Hazardous Materials Use Permit

Background

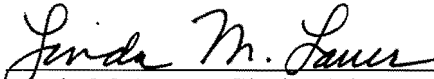
1. On April 16, 2012, the County Executive transmitted Executive Regulation 3-12, Hazardous Materials Use Permit. Executive Regulation 3-12 adds a new category under both the “High Use Facilities” and “General Use Facilities” definitions, establishes a consultation fee, increases late fees for facilities that do not register within 180 days, and adds a waiver provision by which the Office of Emergency Management and Homeland Security Manager may waive or reduce required fees.
2. Under Method (2), if the Council does not approve or disapprove a regulation within 60 days after the Council receives the regulation, it is automatically approved and takes effect the day after the deadline for approval or a later date specified in the regulation. County Code Section 2A-15 allows the Council by resolution to extend the deadline for action.
3. The Public Safety Committee discussed Regulation 3-12 on May 11, 2012 and recommended that the Executive transmit an amended regulation incorporating technical changes.
4. On June 12, the Council approved Resolution 17-465 to extend the deadline for Council action on Executive Regulation 3-12 to December 31, 2012.
5. On July 2, 2012, the County Executive transmitted Executive Regulation 3-12AM, “Hazardous Materials Use Permit”, which included changes to address issues raised by the Council’s Transportation, Infrastructure, Energy and Environment Committee.

Action

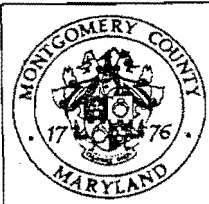
The County Council for Montgomery County, Maryland approves the following resolution:

Executive Regulation 3-12AM, "Hazardous Materials Use Permit", is approved.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	HAZARDOUS MATERIALS USE PERMIT	Number	3-12AM
Originating Department	FIRE AND RESCUE SERVICE	Effective Date	July 24, 2012

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: 3-12AM

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

Effective date: July 24, 2012

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: SARA Compliance Officer
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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

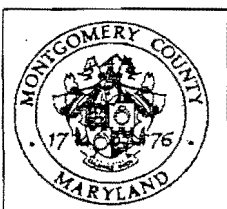
Sec. I Statement of Purpose.

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 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.**¹ 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.

¹ 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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

- (d) **Facility.**² The term "facility" includes, but is not limited to:
- (1) Any single industrial, commercial, educational, recreational³, 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.**⁴ The term "hazardous substance" means:

² 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.

³ 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.

⁴ 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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

(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 agent⁵; flammable gas, liquid or solid; combustible liquid or solid; compressed gas; or cryogenic⁶ 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

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

⁶ Any supercooled liquid or solid.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

surrounding community.

- (m) **OEMHS Manager.** The non-uniformed department head of the Montgomery County Office of Emergency Management and Homeland Security.
- (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).
- (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.
 - (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),



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

the Office of Emergency Management and Homeland Security adjusts the annual 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 Facility.** Any facility subject to the reporting and planning requirements of EPCRA.
 - (2) **High Use Facility.** Any facility that has a hazardous inventory at any time during the year:
 - (A) Equal to or greater than 2000 pounds or 220⁷ 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); or
 - (C) That includes 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.

⁷ 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.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

- (3) **General Use Facility.** Any facility that has a hazardous inventory at any time during the year:
- (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; or
 - (C) That includes 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. A General Use Facility also includes:
 - (D) 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.
 - (E) 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.
- (4) **Light Use Facility.** Any facility that has a hazardous inventory at any time during the year:



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

- (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 reporting as a SARA facility). A Light Use Facility also includes:
 - (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 Facility.** 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 domiciles⁸.
 - (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

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



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

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.
- (G) Any substance to the extent it is used for normal personal, family, or household purposes, or is present in the same container and concentration and is labeled as a product for distribution 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, 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



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

designee with specific knowledge of the hazards present.

- (6) **Hazardous Substances Inventory⁹**. 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 name¹⁰.
 - (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 occurs¹¹.
 - (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

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

¹⁰ 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".

¹¹ 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.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

extremely hazardous substances.

- (A) For the purposes of this section, the most recently submitted Tier II reporting 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 OEMHS Manager. 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:



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

- (A) Annually;
 - (B) As assigned; or
 - (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. 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 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.¹²
- (5) Where no significant changes in inventory or facility have occurred, a facility may

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



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

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.

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.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	HAZARDOUS MATERIALS USE PERMIT	Number	3-12AM
Originating Department	FIRE AND RESCUE SERVICE	Effective Date	

- (A) Initial registration fee \$800
- (B) Annual registration fee. \$400
- (C) Seasonal pools annual registration \$185
(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)



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	HAZARDOUS MATERIALS USE PERMIT	Number	3-12AM
Originating Department	FIRE AND RESCUE SERVICE	Effective Date	

(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.

(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.

(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. |



MONTGOMERY COUNTY EXECUTIVE REGULATION

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

Subject	Number
HAZARDOUS MATERIALS USE PERMIT	3-12AM
Originating Department	Effective Date
FIRE AND RESCUE SERVICE	

- (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.

- (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 Fire and Rescue 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.



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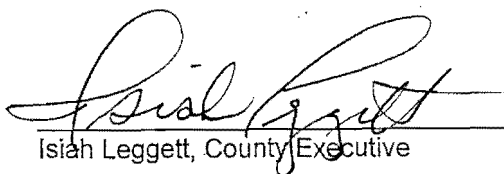
- (A) Failure to register a facility
- (B) Falsely registering a facility
- (C) Failure to provide a plan
- (D) Misstatements or omissions in a plan or application
- (E) Denying entry to authorized official

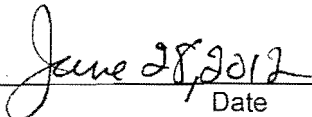
(d) **Right to Hearing**

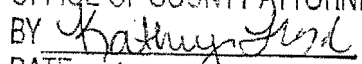
- (1) Any Corporate Responsible Officer or regulated person aggrieved by a decision of the Fire Administrator or Fire Administrator's designee made under these regulations may appeal to a separate hearing officer appointed by the Administrator, who after hearing upon notice has the authority to affirm, 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.


Isiah Leggett, County Executive


Date June 28, 2012

APPROVED AS TO
FORM AND LEGALITY
OFFICE OF COUNTY ATTORNEY
BY 
DATE 6-21-12