

Hazardous Materials Use and Spill Prevention Control (HMPC) Plan

*for Commercial, Industrial and Institutional
Property Owners*



<https://louisvillemsd.org>



What are hazardous materials?

A hazardous material is a substance (biological, chemical, or physical) which has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other substances or factors.

Hazardous materials are defined and regulated in the United States by laws and regulations administered by the U.S. Environmental Protection Agency (EPA), the U.S. Occupational Safety and Health Administration (OSHA), the U.S. Department of Transportation (DOT), and the U.S. Nuclear Regulatory Commission (NRC). Each has its own definition of a “hazardous material.”

In 1976 the Congress of the United States passed a law called the Resource Conservation and Recovery Act (RCRA). Under RCRA, the EPA developed objective criteria to define and identify hazardous wastes for regulation. A waste is considered hazardous if it meets either of the following criteria;

- 1.** It is specifically listed (identified) as hazardous because it is known to be harmful to human health and the environment when not managed properly. There are four lists published in the Code of Federal Regulations (40 CFR Part 261):
 - F list** – Wastes from generic industrial processes such as solvents used for cleaning or degreasing;
 - K list** – Wastes from specific industry sectors such as petroleum refining;
 - P list** – Unused, acutely hazardous commercial chemical products such as aldrin, as chemical used as an agricultural insecticide; and
 - U list** – Unused, commercial chemical products such as DDT and formaldehyde; Or
- 2.** It exhibits one of more **characteristics** that make a waste hazardous:
 - Ignitability** – flammable under certain conditions
 - Corrosivity** – corrodes metals or has a very high or low pH
 - Reactivity** – readily explodes or undergoes violent reactions
 - Toxicity** – known to be harmful or fatal when ingested and is known to leach into ground water at certain levels such as arsenic, lead and mercury.

OSHA’s definition includes any substance or chemical which is a “health hazard” or “physical hazard,” including: chemicals which are carcinogens, toxic agents, irritants, corrosives, sensitizers; agents which act on the hematopoietic system; agents which damage the lungs, skin, eyes, or mucous membranes; chemicals which are combustible, explosive, flammable, oxidizers, pyrophorics, unstable-reactive or water-reactive; and chemicals which in the course of normal handling, use, or storage may produce or release dusts, gases, fumes, vapors, mists or smoke which may have any of the previously mentioned characteristics.

DOT defines a hazardous material as any item or chemical which, when being transported or moved, is a risk to public safety or the environment, and is regulated as such under the: Hazardous Materials Regulations (49 CFR 100-180); International Maritime Dangerous Goods Code; Dangerous Goods Regulations of the International Air Transport Association; Technical Instructions of the International Civil Aviation Organization; U.S. Air Force Joint Manual, Preparing Hazardous Materials for Military Air Shipments.

The NRC regulates items or chemicals which are “special nuclear source” or by-product materials or radioactive substances.

How are hazardous materials controlled?

Louisville Metro has adopted an ordinance called the Hazardous Materials Ordinance (HMO) that requires facilities that have hazardous materials on site in amounts greater than their designated “Reportable Quantity” or RQ as defined in Section 95.04 of the HMO*, to develop a Hazardous Materials



Use and Spill Control (HMPC) Plan. A HMPC Plan details how a facility will prevent the release of hazardous materials, as well as what the facility will do to mitigate a release/spill that occurs. Hazardous material releases can range in magnitude from very minor ones causing no adverse health affects to major ones with the potential to affect hundreds of people.

The Metropolitan Sewer District (MSD) is the agency tasked with administering the HMO. The HMO also requires that releases/spills of hazardous materials above their designated RQ (even if released to containment), or the release of any amount of a hazardous material to either the public sewer or a waterbody, be immediately reported to the “911” emergency number. MSD considers “immediate” to be fifteen (15) minutes or less from the time of discovery.

In the event of a failure to provide such notification, or a delay in notification, a fine of up to \$5,000 may be levied. The HMO also provides for penalties of up to \$5,000 which may be levied in the event of a release occurring due to negligence or because of previous release occurrences by the same facility. The purpose of these fines is to emphasize the importance of protecting the environment and surrounding residents from potential harm from hazardous material releases through spill prevention and control, as well as the timely reporting of releases.

An Appeals & Overseers Board appointed by the Louisville Metro Mayor and composed of representatives from industry, regulatory agencies and the general public was created to allow facilities to appeal if they disagree with either MSD’s interpretation of the adequacy of an HMPC Plan submission or want to challenge a fine or penalty which has been levied. The Appeals & Overseers Board hears cases and makes nonbinding recommendations to MSD for final action.

*The HMO can be accessed on MSD’s website at: <https://louisvillemetro.org/programs/industrial-waste-programs/hazardous-materials>

Which facilities must submit a HMPC Plan?

Not every facility is subject to a HMPC Plan. Facilities that use hazardous materials in quantities that do not exceed what is required to be reported (above the materials’ RQ), agricultural businesses using chemicals only for application on the farm, consumer product and food manufacturers covered under the Food & Drug Act, and residents using chemicals for their

own personal use are not required to submit a HMPC Plan. However, they must complete a HMPC application. MSD will inspect the facility and if warranted, issue the facility an exemption from the HMPC Plan.

Any facility that uses, manufactures and/or stores a hazardous material above its designated RQ must submit a HMPC plan to MSD.

Generally, facilities that must submit a HMPC Plan are defined by their Standard Industrial Classification (SIC) Code. Examples include, but are not limited to:

Lawn & garden services	0782
Manufacturing	2011-3999
Transportation, communication & public utilities	4011-4953
Photographic equipment & Supplies (wholesale)	5043
Industrial supplies (wholesale)	5085
Specific categories in wholesale trade	5099-5199
Gasoline service stations (retail).....	5541
Industrial/Commercial laundries	7211-7219
Disinfecting & exterminating.....	7342
Photo finishing laboratories	7384
Photocopying & duplicity services	7334
Passenger car rental services.....	7514-7515
Truck rental & leasing.....	7513
Automotive repair shops & automotive services	7538-7549
General medical & surgical hospitals	8062
Psychiatric hospitals.....	8063
Specialty hospitals.....	8069

* If you are not sure what SIC Code your facility falls under, go to the Occupational Safety & Health Administration (OSHA) website SIC Code lookup at www.OSHA.gov/pls/imis/sicsearch.html?

How are HMPC plans reviewed and implemented?

MSD will review and approve or deny facility HMPC Plans. The Metro Fire Department with local jurisdiction may also review the plans. Upon approval of the plan, the facility is responsible for its day-to-day implementation, including the initiation of an ongoing training program for employees responsible for handling hazardous materials at the facility. If changes in the types, amounts and/or locations of hazardous materials occur at the facility, the facility must promptly inform MSD so the plan can be updated.

What should a HMPC Plan Include?

MSD provides the applications and instructions for completing a HMPC Plan. The plan should include but not be limited to:

- Facility identification;
- Hazardous materials spill/release history;
- Identification of hazardous materials storage, in-plant transfer, process and materials handling areas and hazardous material truck and rail loading/unloading areas;
- Description of plant site runoff areas;
- Means of spill prevention control and countermeasures (containment, detention equipment and absorbent materials) for each listed hazardous material on site;
- Provisions for the operation and maintenance of spill containment areas;
- Contingency plans, include spill notification procedures for facility personnel, as well as outside first response agencies such as the fire department and MSD;
- Provisions for facility personnel training;
- Security provisions for the facility;
- Provisions for inspections, spill reports preparation and records retention;

- A schedule for plan elements yet to be implemented to include progress report submission to MSD;
- Provisions for plan review and updating; and
- Plan certification by appropriate parties
- A simplified Emergency Response procedure called “Attachment C” posted where employees can easily reference it.

NOTE: one plan may be submitted for businesses with multiple locations such as gas stations.

You can obtain a HMPC application from the MSD website at: <https://louisvillemsd.org/programs/industrial-waste-programs/hazardous-materials>

What can I expect during an inspection?

The HMO requires you to have a copy of your approved HMPC Plan or Exemption letter from MSD available at your facility at all times. The HMO also requires that you post a simplified Emergency Response Procedure called “Attachment C” in at least one location that is accessible and visible by your employees.

The inspection will consist of a visual examination of hazardous materials locations and will address the primary containment of the materials, as well as secondary containment, locations of drains, channels, and conveyances, etc that are in close proximity to the hazardous materials. The inspector will also examine the interaction of hazardous materials stored in close proximity. The written inventory which you submitted to MSD will be compared to hazardous materials/ locations to ensure accuracy.

The inspector will walk around the outside of your facility to insure that a spill/ release will not readily enter the public sewer or drainage conveyances where it could reach a body of water. The inspector will ask you about safety procedures and practices at your facility and will ask you to provide documentation of the required hazardous materials training program at your facility.



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For More Info:
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Call (502) 587-0603