
Rules of
Department of Public Safety
Division 10—Adjutant General
Chapter 11—State Emergency Management Agency

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**Title 11—DEPARTMENT OF
PUBLIC SAFETY
Division 10—Adjutant General
Chapter 11—State Emergency
Management Agency**

**11 CSR 10-11.010 Emergency Operations
Plan (State)**

PURPOSE: The State Emergency Management Agency, office of the adjutant general has the authority to establish a plan to organize the state government in order to respond in an emergency and to provide guidance to state agencies and local political subdivisions in the preparation of disaster plans of their own as required by sections 44.010 and 44.090, RSMo.

Editor's Note: The following material is incorporated into this rule by reference:

1) *State of Missouri Emergency Operations Plan (Jefferson City, MO: Missouri State Emergency Management Agency, January 1995).*

In accordance with section 536.031(4), RSMo, the full text of material incorporated by reference will be made available to any interested person at the Office of the Secretary of State and the headquarters of the adopting state agency.

(1) The purpose of the Emergency Operations Plan is to plan for those functions this office is required to prepare for and for actions needed to prevent, minimize and repair injury and damage due to disasters or emergencies which may result from sabotage or other hostile action, or from fire, flood, earthquake or other natural or man-made causes, other than functions for which military forces are primarily responsible.

AUTHORITY: sections 44.010 to 44.130, RSMo 1994.* *Original rule filed Sept. 10, 1969, effective Sept. 20, 1969. Amended: Filed Feb. 4, 1983, effective May 15, 1983. Filed Jan. 9, 1996, effective July 30, 1996.*

*Original authority may be found in the Revised Statutes of Missouri (1994).

Op. Atty. Gen. No. 58, Wilson (3-14-79). Irrespective of the number or contiguity, counties may, by county court order duly made and entered, participate in cooperative agreements under article VI, section 16 of the Missouri Constitution and sections 70.210, RSMo, respecting the establishment of a common disaster planning program required by section 44.080, RSMo, and may share the cost of the disaster planning office, director and staff thus established.

Op. Atty. Gen. No. 6, Weier (5-13-70). When the citizens of a county are threatened by a disaster, the county court has the authority to activate the county's civil defense personnel without requesting authority from the governor; the persons so activated have all rights, duties and responsibilities granted them under Chapter 44, RSMo (1969) and by the rules thereunder.

Op. Atty. Gen. No. 73, Antoine (8-1-68). The Missouri Civil Defense Act (Chapter 44, RSMo) envisions autonomous local civil defense organization in those political subdivisions defined by the law. Therefore, the county civil defense agency has duties and responsibilities only within the areas of the county lying outside any of the statutorily defined political subdivisions having their own local organization for disaster planning.

Op. Atty. Gen. No. 58, McDaniel (11-14-53). The same rules of negligence are applicable to volunteer participants in the civil defense program as are applied to private individuals in the conduct of their daily affairs, however no liability would be imposed upon such volunteers who, in the exercise of due care, cause damage to property under a lawful order issued by some authority constituted under the Civil Defense Law to act in time of emergency.

**11 CSR 10-11.020 Resources Management
Plan (State)**

PURPOSE: The State Emergency Management Agency, office of the adjutant general has the authority to establish a plan for emergency management of resources as required by section 44.010, RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The Resources Management Plan contains plans for emergency management of re-

sources and administration of economic controls as may be needed to provide for the welfare of the people either on order of or at the request of the federal government or in the event the federal government is incapable of administering control.

AUTHORITY: sections 44.010 to 44.130, RSMo 1986.* *Original rule filed Dec. 20, 1966, effective Dec. 30, 1966. Amended: Filed March 20, 1968, effective March 30, 1968. Amended: Filed Oct. 29, 1970, effective Nov. 8, 1970. Amended: Filed Jan. 26, 1971, effective Feb. 5, 1971. Amended: Filed March 25, 1971, effective April 4, 1971. Amended: Filed July 6, 1971, effective July 16, 1971. Amended: Filed Nov. 5, 1971, effective Nov. 15, 1971. Amended: Filed Feb. 22, 1972, effective March 4, 1972. Amended: Filed May 10, 1973, effective May 20, 1973. Amended: Filed Jan. 25, 1974, effective Feb. 4, 1974. Amended: Filed April 8, 1974, effective April 18, 1974. Amended: Filed Nov. 29, 1974, effective Dec. 9, 1974. Amended: Filed Feb. 7, 1983, effective May 15, 1983.*

*Original authority may be found in the Revised Statutes of Missouri 1986 and Cumulative Supplement 1993.

11 CSR 10-11.030 Federal Financial Assistance

(Rescinded May 15, 1983)

11 CSR 10-11.040 Missouri Disaster Fund

PURPOSE: This rule establishes definitions, eligibility and procedures for providing assistance to state agencies, political subdivisions and individuals who have suffered losses resulting from disaster which has imposed a severe financial burden and imposes a hardship which exceeds ordinary or expected impact on their capacity to restore basic/essential services or materials needed for essential functions. Assistance will be limited to the availability of funds and will not be a duplicate of any other assistance available from any other source.

(1) Amount of the fund will be established by appropriation of the legislature each year.

(2) The funds appropriated shall be expended during a state emergency at the direction of the governor.

(3) The director of the State Emergency Management Agency shall administer the fund.



AUTHORITY: section 44.032, RSMo 1986. Original rule filed Jan. 6, 1986, effective April 14, 1986.*

**Original authority: 44.032, RSMo 1985*

11 CSR 10-11.050 Definitions

PURPOSE: This rule establishes definitions of terminology used in the Missouri Disaster Fund Rules.

(1) In addition to the definitions in chapter 44, RSMo the following terms are defined:

(A) Missouri Disaster Fund. The Missouri Disaster Fund is created to provide a source of assistance from which expenditures may be made to assist state agencies, political subdivisions and individuals to provide immediate aid and relief when disaster occurs which is beyond available resource capability. The fund is limited to appropriations by the legislature and to the approval of the governor of the state of Missouri subject to the eligibility of applicants as established by these rules;

(B) State department or agency. State agency is defined as being a department, division or agency which has extraordinary or excess expense to respond to disaster assistance requests by the governor to alleviate or mitigate the effects or disaster occurrence declared by the governor of Missouri in accordance with Chapter 44, RSMo;

(C) Political subdivision. A legally designated subdivision of the state of Missouri in accordance with Chapter 44, RSMo;

(D) Individual. A family or person who has suffered uninsured losses which are unusual or excessive and are a direct result of disaster beyond the control or expectations of normal losses; and

(E) Governor’s declaration of emergency. When the governor declares a state of emergency, s/he will establish the area affected and set forth the type of emergency. S/he shall also state that the emergency requires the expenditure of public funds to furnish immediate aid and relief and direct the State Emergency Management Agency to administer the fund in accordance with established rules.

AUTHORITY: section 44.032, RSMo 1986. Original rule filed Jan. 6, 1986, effective April 14, 1986.*

**Original authority: 44.032, RSMo 1985.*

11 CSR 10-11.060 State Agency Reimbursement

PURPOSE: This rule outlines eligibility of state agencies for reimbursement of disaster-related expenses.

(1) When a disaster or emergency has been declared by the governor a state department or agency which is requested to provide services to the State Emergency Management Agency or to a political subdivision for disaster relief purposes may be reimbursed. Reimbursement will be from the Missouri Disaster Fund for actual and necessary expenses for emergency services provided which are in excess of normal expenses for response services. Terms and conditions are subject to approval of the director of the State Emergency Management Agency and to the availability of funds.

AUTHORITY: section 44.032, RSMo 1986. Original rule filed Jan. 6, 1986, effective April 14, 1986.*

**Original authority: 44.032, RSMo 1985.*

11 CSR 10-11.070 Political Subdivision Assistance

PURPOSE: This rule establishes the eligibility of political subdivisions for assistance of disaster expenses from the Missouri Disaster Fund.

(1) When estimated repair or replacement costs to damaged or destroyed public property infrastructure exceed the reserve capacity of the subdivision, then assistance from the emergency fund may be made available for approved losses and within established limitations.

(2) Inspections and estimates of eligible losses shall be made and determined by state agency personnel having qualifications and expertise.

AUTHORITY: section 44.032, RSMo 1986. Original rule filed Jan. 6, 1986, effective April 14, 1986. Amended: Filed March 20, 1989, effective June 29, 1989.*

**Original authority: 44.032, 1985.*

11 CSR 10-11.080 Individual Assistance

PURPOSE: This rule establishes eligibility of individuals to receive assistance for unin-

sured losses resulting from disaster-related damages.

(1) When an individual or a family suffers losses of basic needs or have necessary expenses which are uninsured and when assistance is not available from volunteer agencies or any other source they may apply for help from the Missouri Disaster Fund.

(2) The losses or needs must be verified and the application for assistance approved by the State Emergency Management Agency.

(3) Assistance will be provided when funds are available for essential repairs items of equipment, supplies or services necessary to reestablish the household, as determined by the director of the State Emergency Management Agency, and will not exceed one thousand dollars (\$1,000) for each eligible applicant.

AUTHORITY: section 44.032, RSMo 1986. Original rule filed Jan. 6, 1986, effective April 14, 1986. Amended: Filed March 20, 1989, effective June 29, 1989.*

**Original authority: 44.032, RSMo 1985.*

11 CSR 10-11.090 Procedures for Submitting Requests

PURPOSE: This rule establishes procedures which shall be followed to apply for assistance by state agencies, political subdivisions and individuals to receive assistance from the Missouri Disaster Fund.

(1) All requests for assistance from the fund shall be submitted, in writing, by the state agency or department director or chief executive officer of the political subdivision or by the individual through the State Emergency Management Agency using the forms prescribed. The requests will be subject to approval by the governor and to the review of the state director of the State Emergency Management Agency before payment will be made. Payments are subject to verification and audit. If assistance is provided from other sources, the state shall be reimbursed for those items. In all cases the director of the State Emergency Management Agency has ultimate authority and responsibility for reimbursement.

AUTHORITY: section 44.032, RSMo 1986. Original rule filed Jan. 6, 1986, effective April 14, 1986. Amended: Filed March 20, 1989, effective June 29, 1989.*

*Original authority: 44.032, RSMo 1985.

11 CSR 10-11.100 Major Disasters, Presidentially Declared

PURPOSE: This rule clarifies and differentiate assistance from the Missouri Disaster Fund and federal assistance which may be available when a federal disaster is declared.

(1) The Missouri Disaster Fund is not intended to replace federal disaster assistance under Public Law 93-288 which may be available when major disasters occur and which provides a wide range of assistance in accordance with federal regulations. The Missouri Disaster Fund is enacted to provide relief for political subdivisions and individuals when the magnitude and impact of disaster is below the level of eligibility for application to the federal government for a major disaster declaration but which would have a severe impact to a community or to individuals.

AUTHORITY: section 44.032, RSMo 1986.* Original rule filed Jan. 6, 1986, effective April 14, 1986.

*Original authority: 44.032, RSMo 1985.

11 CSR 10-11.110 Limitations

PURPOSE: This rule establishes limits of expenditure from the fund for each disaster declaration or emergency.

(1) The director of the State Emergency Management Agency shall administer the Missouri Disaster Fund and shall not make any expenditure from the fund in excess of one thousand dollars (\$1,000) unless approved by the governor prior to expenditure. Expenditures shall be for immediate and necessary needs, personnel and/or equipment to reduce the imminent impact of the incident. Expenditures must be documented and will be subject to state audit.

(2) When the Missouri Disaster Fund is depleted, further expenditures will cease until the legislature appropriates additional funds.

AUTHORITY: section 44.032, RSMo 1986.* Original rule filed Jan. 6, 1986, effective April 14, 1986. Amended: Filed March 20, 1989, effective June 29, 1989.

*Original authority: 44.032, RSMo 1985.

11 CSR 10-11.120 Volunteer Inspectors Administrative Plan (State)

PURPOSE: The State Emergency Management Agency, Office of the Adjutant General has the authority to establish a plan to establish and administer an emergency volunteer program to be activated in the event of a catastrophic earthquake or other natural disaster whereby volunteer architects and professional engineers registered under Chapter 327, RSMo may volunteer their services to determine whether or not buildings have been affected as required by section 44.023, RSMo.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) The purpose of the administrative plan is to fulfill the requirements of the legislation to establish and administer an emergency volunteer program. These volunteers are to be Missouri registered professional architects and engineers that will be used to assist local officials in the inspection of buildings after the occurrence of an earthquake or other natural disaster. These volunteers will be utilized for a period of three (3) days during which their incidental expenses will be paid by the local jurisdiction. They will have immunity from personal liability except in cases of willful misconduct or gross negligence.

AUTHORITY: section 44.023, RSMo Supp. 1991.* Original rule filed March 31, 1994, effective Sept. 30, 1994.

*Original authority: 44.023, RSMo 1991.

11 CSR 10-11.210 General Organization Missouri Emergency Response Commission

PURPOSE: This rule explains the formation of the Missouri Emergency Response Commission and its responsibilities under the Emergency Planning and Community Right-

to-Know Act. Also explained is how to obtain additional information regarding these activities and where to make submittals.

(1) The Department of Public Safety is authorized under sections 292.600–292.625, RSMo to administer the state and the federal Emergency Planning and Community Right-to-Know Act (EPCRA). The State Emergency Management Agency (SEMA) has been designated by the Department of Public Safety to provide the day-to-day operation of the EPCRA Program and the Hazardous Materials Emergency Preparedness (HMEP) Program.

(2) The Missouri Emergency Planning and Community Right-to-Know Act (EPCRA) or sections 292.600–292.625, RSMo) and the federal EPCRA (P.L. 99-499) are administered in Missouri by the Missouri Department of Public Safety in conjunction with the Missouri Emergency Response Commission (MERC). MERC was first established in 1987 by Executive Order of the Governor and was later established under statute in 1988 and revised in 1992. The commission resides within the Missouri Department of Public Safety. The commission in conjunction with the department is responsible for—

(A) Carrying out the responsibilities assigned under the federal EPCRA and the state Act (sections 292.600–292.625, RSMo);

(B) Designating Local Emergency Planning Districts (LEPD), appointing a Local Emergency Planning Committee (LEPC) to each district; coordinating, supporting and supervising LEPC activities and reviewing and commenting on LEPC plans;

(C) Establishing a single filing point for all state and federal EPCRA information;

(D) Accepting, receiving and administering grants and gifts, including those from the federal government, for carrying out the purposes of the law;

(E) Providing assistance to LEPCs for carrying out responsibilities under the state and federal EPCRA laws;

(F) Providing training to LEPCs and others;

(G) Entering into agreements with other persons or agencies to carry out the requirements of the state and federal EPCRA legislation;

(H) Collecting and allotting funds as specified in sections 292.604 and 292.606, RSMo;

(I) Developing a data management system to store and retrieve EPCRA information. Assisting LEPCs, fire departments and others to make this information readily available for

planning and emergency response purposes; and

(J) In addition to subsections (2)(A)–(J), the director of the Department of Public Safety or authorized representative has the responsibility and authority under sections 292.600–292.625, RSMo to—

1. Promulgate rules to carry out Missouri’s EPCRA and to meet the reporting requirements of the federal EPCRA;

2. Exercise general supervision of the administration and enforcement of the state EPCRA and all rules adopted under it;

3. Hire staff, within appropriations, as may be necessary to carry out the provisions of the state EPCRA;

4. Budget and receive appropriated moneys to carry out the state EPCRA;

5. Accept, receive, and administer gifts and grants, including those from the federal government, to carry out the purposes of the state EPCRA;

6. Work with LEPCs to carry out the purposes of the state EPCRA; and

7. Administer the Chemical Emergency Preparedness Fund established in section 292.607, RSMo, in conjunction with the commission.

(3) Information.

(A) Requests for copies of rules, report forms, planning guides, and other EPCRA information may be made to the Missouri Emergency Response Commission, PO Box 3133, Jefferson City, MO 65102.

(B) The EPCRA files, except trade secrets, as provided in section 292.610, RSMo, are public information and are located in the offices of the Missouri Emergency Response Commission, 2302 Militia Dr., Jefferson City, Missouri. Anyone wishing to review information in the EPCRA files is requested to make an appointment by writing to the MERC at the mailing address listed in subsection (3)(A). There is no fee for reviewing file information. There is a copying fee if copies of file information are made and it must be paid by check or money order.

AUTHORITY: section 292.613, RSMo 2000. This rule previously filed as 11 CSR 40-4.010. This rule also filed as 10 CSR 24-1.010. Original rule filed Nov. 30, 1983, effective April 12, 1984. Emergency amendment filed Dec. 2, 1992, effective Jan. 1, 1993, expired April 20, 1993. Amended: Filed Oct. 5, 1992, effective April 8, 1993. Amended: Filed Nov. 5, 1993, effective June 6, 1994. Changed to 11 CSR 10-11.210. Amended: Filed Dec. 19, 2001, effective June 30, 2002.

**Original authority: 292.613, RSMo 1988, amended 1993, 1995.*

11 CSR 10-11.220 Definitions

PURPOSE: This rule provides definitions for terms used in 11 CSR 10.

(1) Administrator—the administrator of the United States Environmental Protection Agency.

(2) Business—each corporation as defined under Chapter 351, RSMo; each business required to register under Chapter 417, RSMo; each person engaged in or transacting business in Missouri; each department of state government; and each political subdivision of the state.

(3) Commission—the Missouri Emergency Response Commission (MERC) established under section 292.602, RSMo.

(4) Covered facility—any facility required to report to the commission under the state or federal Emergency Planning and Community Right-to-Know Act.

(5) Department—the Department of Public Safety.

(6) Director—director of the Department of Public Safety.

(7) Emergency Planning and Community Right-to-Know Act (EPCRA)—the federal Emergency Planning and Community Right-to-Know Act of 1986 (P.L. 99-499) and all rules promulgated under the federal Act or the Missouri EPCRA (sections 292.600–292.625, RSMo). If not specified as to the federal or state Act, it refers to both.

(8) Employer—a person engaged in business and including the state and any political subdivision.

(9) Extremely hazardous substance—a substance listed under 40 CFR part 355 by the administrator.

(10) Facility—all buildings, equipment, structures and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person (or by any person which controls, is controlled by or under common control with that person). For purposes of emergency release notification, the term includes motor vehicles, rolling stock and aircraft.

(11) Family farm—an unincorporated farming unit owned or leased by one (1) or more persons residing on the farm or actively engaged in farming.

(12) Form R or toxic release inventory—the report form as developed by the administrator to report toxic emissions under Section 313 of the EPCRA.

(13) Hazard category—any of the following:

(A) “Immediate (acute) health hazard,” including “highly toxic,” “toxic,” “irritant,” “sensitizer,” “corrosive,” (as defined under Section 1910.1200 of Title 29 of the *Code of Federal Regulations*) and other hazardous chemicals that cause an adverse effect to a target organ and which effect usually occurs rapidly as a result of short-term exposure and is of short duration;

(B) “Delayed (chronic) health hazard,” including “carcinogens” (as defined under Section 1910.1200 of Title 29 of the *Code of Federal Regulations*) and other hazardous chemicals that cause an adverse effect to a target organ and which effect generally occurs as a result of long-term exposure and is of long duration;

(C) “Fire hazard,” including “flammable,” “combustible liquid,” “pyrophoric” and “oxidizer” (as defined under Section 1910.1200 of Title 29 of the *Code of Federal Regulations*);

(D) “Sudden release of pressure,” including “explosive” and “compressed gas” (as defined under Section 1910.1200 of Title 29 of the *Code of Federal Regulations*); and

(E) “Reactive,” including “unstable reactive,” “organic peroxide” and “water reactive” (as defined under Section 1910.1200 of Title 29 of the *Code of Federal Regulations*).

(14) Hazardous chemical—any hazardous chemical as defined under Section 1910.1200(c) of Title 29 of the *Code of Federal Regulations*, that term does not include the following substances:

(A) Any food, food additive, color additive, drug or cosmetic regulated by the Food and Drug Administration;

(B) Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use;

(C) Any substance to the extent it is used for personal, family or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public;

(D) Any substance to the extent it is used in a research laboratory or a hospital or other

medical facility under the direct supervision of a technically qualified individual; or

(E) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

(15) Hazardous Substance—any extremely hazardous substance listed in 40 CFR part 355; any hazardous chemical as defined in section (14); any pesticide for which a registration has been canceled or suspended under the provisions of section 263.300, RSMo, or the federal Insecticide, Fungicide and Rodenticide Act of 1972 (P.L. 92-516).

(16) Local Emergency Planning Committee (LEPC) chair—that person elected by the membership of the LEPC to call and chair LEPC meetings, to assign tasks, to develop LEPC subcommittees and to oversee the functioning of the LEPC. The LEPC chair and LEPC coordinator may be the same person.

(17) LEPC coordinator—a staff person, usually from local government, a regional planning council or a volunteer that maintains the day-to-day operations of the LEPC. Duties might include information management, facility compliance activities, hazardous materials planning, fund management, providing the functions of the community emergency coordinator and various other duties necessary for an LEPC to function. The LEPC coordinator and LEPC chair may be the same person.

(18) LEPC or committee—the people appointed by the MERC for a local emergency planning district for the purpose of improving hazardous chemical safety and preparedness.

(19) Local Emergency Planning District (LEPD) or district—a geographical area in Missouri designated by MERC for the purpose of hazardous chemical safety and planning.

(20) Local gas distribution system—a gas distribution system regulated by the Public Service Commission (PSC) that provides natural gas to the end use consumers of that gas. It does not include any pipeline, feeder line or transmission line, as defined by the PSC, that transports natural gas to other distribution systems or to other persons for subsequent distribution.

(21) Local government—any county, township, municipal corporation, school district

or other governmental body of equivalent rank.

(22) Material Safety Data Sheet (MSDS)—the sheet required to be developed under Section 1910.1200(g) of Title 29 of the *Code of Federal Regulations*.

(23) Missouri Emergency Response Commission (MERC) or commission—The commission established under section 292.602, RSMo.

(24) Missouri Tier Two Form (see 11 CSR 10-11.240)—the emergency and hazardous chemical inventory form developed by the MERC.

(25) Person—any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government or any other legal entity which is recognized by law as the subject of rights and duties.

(26) Petroleum retail facility—a facility where more than fifty percent (50%) of the hazardous material revenues are from the retail sale and delivery of gasoline, diesel fuel and propane to the general public at the facility.

(27) Petroleum-related employer—the person, firm or corporation earns more than fifty percent (50%) of its hazardous chemical revenues from the sale, delivery or transport of petroleum products.

(28) Release—any threatened or real emission, discharge, spillage, leakage, pumping, pouring, emptying or dumping of a substance into or onto the land, air or waters of the state unless done in compliance with the conditions of a federal or state permit, unless the substance is confined and is expected to stay confined to property owned, leased or otherwise controlled by the person having control over the substance or unless, in the case of pesticides, application is done in accordance with the product label.

(29) Threshold planning quantity—is the quantity of an extremely hazardous substance established by the administrator under 40 CFR part 355 for emergency planning purposes.

(30) Transportation fee—a fee paid to the United States Department of Transportation under Section 117A(h) of the Hazardous Materials Transportation Act (P.L. 101-615).

(31) Waters of the state—all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two (2) or more persons jointly or as tenants in common and include waters of the United States lying within the state.

AUTHORITY: section 292.613, RSMo 2000. This rule previously filed as 11 CSR 40-4.020. This rule also filed as 10 CSR 24-2.010. Original rule filed Nov. 30, 1983, effective April 12, 1984. Emergency amendment filed Dec. 2, 1992, effective Jan. 1, 1993, expired April 30, 1993. Amended: Filed Oct. 5, 1992, effective April 8, 1993. Amended: Filed Nov. 5, 1993, effective June 6, 1994. Changed to 11 CSR 10-11.220. Amended: Filed Dec. 19, 2001, effective June 30, 2002.

**Original authority: 292.613, RSMo 1988, amended 1993, 1995.*

11 CSR 10-11.230 Emergency Notification of Releases of Hazardous Substances and Extremely Hazardous Substances

PURPOSE: This rule establishes a statewide emergency telephone number to notify Missouri whenever a hazardous substance emergency occurs and specifies the requirements for emergency notification and follow-up written notices in the event of a hazardous substance emergency, the release of a reportable quantity of a hazardous substance and the release of a reportable quantity of an extremely hazardous substance.

(1) Any person required to report the release of a hazardous substance or extremely hazardous substance in accordance with Section 304 of the Federal Emergency Planning and Community Right-to-Know Act (EPCRA) shall meet this requirement by notifying the Missouri Department of Natural Resources (MDNR) at 314/634-2436 as specified in 10 CSR 24-3.010 and shall provide such information as specified in 10 CSR 24-3.010(1) to the MDNR and to the emergency coordinator for the Local Emergency Planning Committee (LEPC) for any area likely to be affected by the release. If there is no LEPC or if a local emergency contact has not been designated by the LEPC, notification shall be provided to the appropriate local emergency response personnel.

(2) Any person required to provide an emergency notification under 11 CSR 10-11.230(1) shall provide a written follow-up emergency notice (or notices as more information becomes available) to the department and any affected LEPC. This written notice(s) shall contain the information described in 10 CSR 24-3.010(3). Also, written follow-up notice(s) shall be provided to the MDNR upon request of the MDNR.

AUTHORITY: section 292.613, RSMo 2000. This rule previously filed as 11 CSR 40-4.030. Original rule filed Nov. 30, 1983, effective April 12, 1984. Emergency amendment filed Dec. 2, 1992, effective Jan. 1, 1993, expired April 30, 1993. Amended: Filed Oct. 5, 1992, effective April 8, 1993. Amended: Filed Nov. 5, 1993, effective June 6, 1994. Changed to 11 CSR 10-11.230. Amended: Filed Dec. 19, 2001, effective June 30, 2002.

**Original authority: 292.613, RSMo 1988, amended 1993, 1995.*

11 CSR 10-11.240 Reporting Procedures Under the State and Federal Emergency Planning and Community Right-to-Know Act (EPCRA)

PURPOSE: This rule establishes reporting procedures for persons and businesses in Missouri to comply with the state and federal Emergency Planning and Community Right-to-Know Acts.

(1) The format for routine reporting under sections 302, 303, 311 and 312 of the federal Emergency Planning and Community Right-to-Know Acts (EPCRA) and sections 292.605 and 292.617, RSMo of the state EPCRA is the Missouri Tier Two form. This form can be accessed on the Internet at www.sema.state.mo.us/mercc.htm. These reports are due to the department or post-marked by March 1 annually for the previous calendar year. The state EPCRA requires the names, current addresses and phone numbers of at least two (2) individuals familiar with the kind, location, nature and approximate quantities present in the facility, who may be contacted in the event of an emergency. The federal regulations for reporting under sections 302 and 303 of the EPCRA are in 40 CFR part 355. Federal regulations for reporting under sections 311 and 312 of the EPCRA are in 40 CFR part 370.

(A) Section 302 of the federal EPCRA requires anyone in Missouri having an extremely hazardous substance at or above the threshold planning quantity at a facility to

provide that information to the Missouri Emergency Response Commission (MERC).

(B) Section 303 of the federal EPCRA requires that anyone having an extremely hazardous substance at a facility at or above the threshold planning quantity provide the Local Emergency Planning Committee (LEPC) with the name of a facility coordinator to work with LEPC to plan for hazardous chemical emergencies at the facility. The first person listed in the Emergency Contact section of the Tier Two form shall be the facility coordinator for any facility with an extremely hazardous substance at or above the threshold planning quantity.

(C) The information required in subsections (1)(A) and (B) of this rule must be updated within sixty (60) days of a new extremely hazardous substance being present at the facility at or above the threshold planning quantity. Also, the owner or operator of a facility subject to subsection (1)(B) shall inform LEPC of any changes occurring at the facility which may be relevant to emergency planning.

(D) Any person engaged in business in Missouri having ten thousand pounds (10,000 lbs.) or more of a hazardous chemical at a facility or five hundred pounds (500 lbs.) or more (or the threshold planning quantity, whichever is less) of an extremely hazardous substance shall complete the Missouri Tier Two form for all such hazardous chemicals and extremely hazardous substances.

1. The Missouri Tier Two form is due each March 1 for the previous calendar year.

2. If any new hazardous chemical or extremely hazardous substance comes onto the site in a quantity sufficient to require reporting under this subsection, an updated Tier Two form must be provided within three (3) months.

3. The Tier Two form shall be provided to the local fire department, LEPC and MERC under this subsection.

(E) Owners and operators of facilities where one hundred pounds (100 lbs.) or more of explosives or blasting agents are present shall notify the fire department within twenty-four (24) hours of those materials being on-site. If the explosives or blasting agents are on-site for fifteen (15) days or more, a Tier Two form shall be provided to the fire department, LEPC and MERC.

(2) Upon a request from the local fire department, LEPC or the department, any person required to report under section (1) of this rule shall provide, as requested, a Missouri Tier Two form, Material Safety Data Sheet (MSDS), written description or diagram and other information regarding the kind, loca-

tion, approximate quantities, hazardous nature and method of containment of hazardous chemicals which are stored, used or produced at the facility. Upon a request for information from the fire department, LEPC or department, the threshold for reporting under this section is anything over zero pounds (0 lbs.).

(3) Toxic Chemical Release Inventory (Form R) Reporting.

(A) Anyone required to report under Section 313 of the federal EPCRA shall file a copy of each Toxic Release Inventory with Department of Natural Resources at PO Box 176, Jefferson City, MO 65102. These forms are due by July 1 of each year for the previous calendar year.

(B) Submittal of the Toxic Release Inventory shall be on Form R as developed by the United States Environmental Protection Agency for each reporting year. Electronic or magnetic media submittals will not be accepted unless specifically authorized and in a format approved by the Missouri Department of Natural Resources. Federal regulations for submittal of Toxic Release Inventory forms (Form R) are contained in 40 CFR part 372.

AUTHORITY: section 292.613, RSMo 2000. This rule previously filed as 11 CSR 40-4.040. This rule also filed as 10 CSR 24-4.010. Emergency rule filed Dec. 2, 1992, effective Jan. 1, 1993, expired April 30, 1993. Original rule filed Oct. 5, 1992, effective April 8, 1993. Amended: Filed Nov. 5, 1993, effective June 6, 1994. Changed to 11 CSR 10-11.240. Amended: Filed Dec. 19, 2001, effective June 30, 2002.

**Original authority: 292.613, RSMo 1988, amended 1993, 1995.*

11 CSR 10-11.250 Hazardous Chemical Fees

PURPOSE: This rule describes the hazardous chemical fee system, how to calculate these fees and when and where to submit them.

(1) Fees for Tier Two forms (see 11 CSR 10-11.220) are payable at the time Tier Two forms are due, each March 1 for the previous calendar year.

(A) Fees shall be calculated as described in this section. It shall be the employer's responsibility to calculate the required fees on the fee calculation worksheet which can be accessed on the Internet at www.sema.state.mo.us/mercc.htm and to remit them to the Missouri Emergency Response Commission (MERC) at PO Box

3133, Jefferson City, MO 65102. Family farm operations and local government facilities are exempt from paying fees under this chapter.

(B) Fees that are owed are due at the MERC or postmarked no later than March 1 each year along with the Tier Two forms and the fee calculation worksheet. A late charge of ten percent (10%) of the fees owed will be assessed for fees that are not paid on time. An additional one percent (1%) per month of fees owed plus late charges will also be assessed for late submittal of fees.

(C) Owners or operators of petroleum retail facilities shall pay fifty dollars (\$50) for each facility.

(D) Owners or operators of other facilities shall pay one hundred dollars (\$100) for up to three (3) reportable hazardous chemicals listed on the Tier Two form and twenty dollars (\$20) for each additional reportable hazardous chemical in excess of three (3).

(E) For each calendar year, fees shall be calculated based on each hazardous chemical on hand at any one (1) time at a facility in excess of ten thousand pounds (10,000 lbs.) or for extremely hazardous substances on hand at any one (1) time in excess of five hundred pounds (500 lbs.) or the threshold planning quantity, whichever is less, or for explosives or blasting agents on hand at any one (1) time in excess of one hundred pounds (100 lbs.).

(F) For the purpose of calculating fees, all grades of gasoline are considered to be one (1) product; all grades of heating oils, diesel fuels, kerosenes, naphthas, aviation turbine fuel and all other heavy distillate products except for grades of gasoline are considered to be one (1) product, and all varieties of motor lubricating oil are considered to be one (1) product.

(2) Petroleum-Related Employers.

(A) Any employer that wants to be considered a petroleum-related employer must certify to the commission that more than fifty percent (50%) of the employer's hazardous chemical revenue is from the sale, delivery or transport of petroleum products. This certification shall be in writing, signed by an officer of the company and shall pertain to the calendar year for which Tier Two forms are filed. The commission may require that additional documentation be provided on request to establish that an employer is a petroleum-related employer.

(B) An employer whose primary hazardous chemical business is petroleum related and who has paid federal hazardous materials transportation fees during the calendar year for which the Tier Two form is filed may

deduct the amount of the transportation fee from the amount owed to MERC.

(C) In order to deduct transportation fees from fees otherwise owed to MERC, petroleum-related employers shall provide documentation with their Tier Two forms on the amount of transportation fees paid to the United States Department of Transportation. The transportation fees may be deducted only for the same calendar year that the Tier Two forms cover.

(D) If the federal transportation fees exceed the fees that would otherwise be owed to MERC, no fees shall be required to be paid to the MERC.

(E) In order to deduct federal transportation fees from those owed to the commission, a petroleum-related employer shall file all his/her Tier Two forms together, along with a list of the employer's facilities by county. Also, that employer shall calculate and list the fees that would be paid for each facility, total those fees and subtract the federal transportation fee from that total.

(3) Any one employer shall not be required to pay more than ten thousand dollars (\$10,000) per year in fees to MERC under sections (1)–(5) of this rule.

(A) Any employer requesting the use of this ten thousand dollar (\$10,000)-cap on fees shall file all of his/her Tier Two forms together along with a list of each of the employer's facilities by county.

(B) The employer also shall calculate and list the fee that would apply to each facility in the absence of the ten thousand dollar (\$10,000)-cap.

(4) Employers, at their discretion, may list hazardous chemicals on their Tier Two form for which reporting is not required. The employer shall designate which chemicals are not required to be reported and shall not be required to pay fees for these chemicals.

(5) Employers engaged in transporting hazardous chemicals by pipeline, except local gas distribution companies regulated by the Missouri Public Service Commission, shall pay a fee of two hundred fifty dollars (\$250) for each county in which they operate.

(A) These fees are due March 1 each year for pipelines operated during the previous calendar year.

(B) Along with the fees, an employer reporting under this section shall list the counties in which they operated during the previous calendar year.

(C) A late charge of ten percent (10%) of the fees owed under this section will be assessed for fees that are not paid on time.

An additional one percent (1%) per month of fees owed plus late charges also will be assessed for late submittal of fees.

(6) Fees collected by the department and all funds provided to local emergency planning committees shall be used for chemical emergency preparedness purposes as outlined in sections 292.600 to 292.625, RSMo and the federal act, including:

(A) Contingency planning for chemical releases;

(B) Exercising, evaluating, and distributing plans;

(C) Providing training related to chemical emergency preparedness and prevention of chemical accidents;

(D) Identifying facilities required to report;

(E) Processing the information submitted by facilities and making it available to the public;

(F) Receiving and handling emergency notifications of chemical releases;

(G) Operating a local emergency planning committee;

(H) Providing public notice of chemical preparedness activities.

(7) Local emergency planning committees receiving funds under this section may combine such funds with other local emergency planning committees to further the purposes of sections 292.600 to 292.625, RSMo or the federal act.

(8) The commission shall establish criteria and guidance on how funds received by local emergency planning committees may be used.

(9) No funds provided to the local emergency planning committees under this program shall be used for salaries for full-time employee.

AUTHORITY: section 292.613, RSMo 2000. This rule previously filed as 11 CSR 40-4.050. This rule also filed as 10 CSR 24-5.010. Emergency rule filed Dec. 2, 1992, effective Jan. 1, 1993, expired April 30, 1993. Original rule filed Oct. 5, 1992, effective April 8, 1993. Amended: Filed Nov. 5, 1993, effective June 6, 1994. Changed to 11 CSR 10-11.250. Amended: Filed Dec. 19, 2001, effective June 30, 2002.

**Original authority: 292.613, RSMo 1988, amended 1993, 1995.*