

LAST VERSION

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MISSISSIPPI EMERGENCY RESPONSE COMMISSION

August 26, 1987

EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW

MERC - 1

I. Authorities: Title III of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11001 ,et.seq.), Section 33-15-11, Mississippi Code of 1972, and Executive Order 573.

II. Regulatory Intent: It is the intent of these regulations to apply the federal law and regulations for the implementation of comprehensive state and local response planning and Community Right to Know in Mississippi. The process is designed to protect the public and the environment from an accidental release of an extremely hazardous substance, and to increase the public awareness. Where there are omissions, ambiguities or differences from the federal laws and regulations, the federal law and regulations shall govern.

III. Definitions:

"Act" means the Superfund Amendments and Reauthorization Act of 1986.

"CERCLA" means the Comprehensive Emergency Response, Compensation and Liability Act of 1980, as amended.

"CERCLA Hazardous Substance" means a substance as defined in the list in Section 101 (14) of CERCLA (40 CFR 302.4)

"Environment" includes water, air and land, and the interrelationship that exists among and between water, air and land, and all living things.

"Commission" means the Mississippi Emergency Response Commission or "MERC" (the Mississippi Emergency Management Agency) as designated by Executive Order 573.

"Committee" means the local emergency planning committee.

"Emergency Planning District" means the counties of Mississippi designated as "districts" in accordance with the Act and this rule.

"Extremely Hazardous Substance" means the substances listed in Appendix A and in 40 CFR 355 (FR 52, 13376, April 22, 1987).

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

"Hazardous Chemical" means any hazardous chemical as defined by 29 CFR 1910.1200 (c), except that it does not include the following substances:

- (1) Any food, food additives, color additives or cosmetic regulated by the Food and Drug Administration.
- (2) Any substance present as a solid in any manufactured item to the extent exposure does not occur under normal conditions of use.
- (3) Any substance to the extent it is used for personal, family or household purposes, or is present in the same form as a product packaged for distribution and use by the general public.
- (4) 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 person.
- (5) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to an ultimate customer.

"Inventory Form" means the Tier I and Tier II emergency and hazardous chemical inventory forms specified in 40 CFR 370.40 (FR 52, 2835, January 27, 1987).

"Material Safety Data Sheet" or "MSDS" means the sheet required to be prepared under 29 CFR 1910.1200 (g).

"Mixture" means a heterogenous association of substances where the various individual substances retain their identities and can usually be separated by mechanical means. Includes solutions or compounds but does not include alloys or amalgams.

"Person" means any individual, trust, firm, joint stock company, corporation, partnership, association, State, municipality, commission, political subdivision of a State, or interstate body.

"Release " means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles) of any hazardous chemical, extremely hazardous substance, toxic chemical or CERCLA Hazardous substance.

"Reportable Quantity" means for any CERCLA hazardous substance, the applicable quantity established in the table in 40 CFR 302.4 for such substance; for any other substance, the reportable quantity is one pound.

"Threshold Planning Quantity" means for a substance listed in Appendix A or in the tables appended to 40 CFR 355, the quantity listed in the column "threshold planning quantity" for the substance.

"Toxic chemical" means a chemical or chemical category listed in 40 CFR 372.45. (FR 52, 21152, June 4, 1987)

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands and any territory or possession over which the United States has jurisdiction.

"USEPA" means the United States Environmental Protection Agency.

IV. The Mississippi Emergency Response Commission:

The Mississippi Emergency Management Agency was designated Mississippi Emergency Response Commission (MERC) on March 3, 1987, by the Governor of Mississippi. The Mississippi Emergency Response Commission has certain powers to implement the provisions of Title III of the Superfund Amendments and Reauthorization Act (the Emergency Planning and Community Right to Know Act of 1986) (42 U.S.C. 11001 ,et.seq.). Specifically, the Commission shall:

- a) Designate emergency planning districts within the State;
- b) Appoint local emergency planning committees;
- c) Supervise and coordinate local emergency planning committee activities;
- d) Establish procedures for receiving and processing requests from the public for information under Section 324 of the Act including Tier II information under Section 312.
- e) Designate an official to serve as coordinator for information;
- f) Carry out any other responsibilities as designated by the Act and any amendments thereto.

V. Emergency Planning Districts:

To facilitate emergency plan preparation as well as the execution of emergency plans, effective July 17, 1987, each county in Mississippi is designated as an emergency planning district, except that those multi-county districts formed in accordance with Section 33-15-17 (a), Mississippi Code of 1972, may be designated if so requested. Requests for such designation shall be submitted to the Commission in writing.

VI. Local Emergency Planning Committees:

Local emergency planning committees shall be established within each

emergency planning district no later than 30 days after the designation of the emergency planning district, or by August 17, 1987, whichever is earlier.

a) Planning Committee Representatives

The local emergency planning committee shall, as a minimum, be composed of representatives from the following groups or organizations:

State and local elected official	Law enforcement
Civil defense/emergency management	Fire fighting
First aid or emergency medical	Health
Local environmental groups	Hospital
Broadcast and print media	Transportation
Owners and operators of facilities	Community Groups
(Subject to the Act)	

b) Establishing a Local Emergency Planning Committee

The President of the Board of Supervisors of the emergency planning district (county) shall be responsible, in coordination with other local officials, for recruiting and recommending in writing to the Commission the names of persons representing the organizations or groups cited in paragraph VI. a) of this rule. The Commission shall review the list of recommended local emergency planning district and, from those lists, appoint members to serve on each district's local emergency planning committee. The Commission shall notify the President of the Board of Supervisors of each emergency planning district in writing of the local emergency planning committee appointments.

- c) Within thirty days following appointment, the local emergency planning committee shall elect a chairperson and designate an official to serve as coordinator for information. The local emergency planning committee shall also establish rules and guidelines by which it shall function.
- d) The local emergency planning committee shall notify the Commission in writing of its elected chairperson and designated coordinator for information, including the addresses and phone numbers of these officials. The Commission shall provide a copy of this information to anyone upon request.
- e) The local emergency planning committee shall establish procedures for receiving and processing requests from the public for information under Section 324 of the Act, including Tier II information under Section 312 of the Act.
- f) Revisions

The Commission may revise designated emergency planning districts and local emergency planning committee appointments. Interested persons may petition the Commission to modify a local emergency planning committee membership by writing to the Chairman, Missis-

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Mississippi Emergency Response Commission, P.O. Box 4501 Jackson, Ms.
39216-0501.

VII. Functions of a Local Emergency Planning Committee:

The local emergency planning committee shall, as a minimum, carry out the following functions:

- a) Elect a chairperson;
- b) Appoint a coordinator for information;
- c) Notify the Commission in writing whenever there is a change in the chairperson or the coordinator for information.
- d) Establish operating rules and guidelines to include provisions for the following activities:
 - 1) Public notification of committee activities
 - 2) Public discussion of emergency plans
 - 3) Acknowledge need for public comments
 - 4) Response to public comment
 - 5) Distribution of the local emergency plan
 - 6) Receiving and processing requests from the public for information.
- e) Prepare a local emergency plan.

VIII. Preparation of Local Emergency Plan:

- a) Each local emergency planning committee shall complete an emergency response plan by October 17, 1988. The plan shall be prepared using the guidance contained in NRT-1, (Hazardous Materials Emergency Planning Guide, March 1987) and any additional guidance provided by the Commission. After completion of an emergency response plan for an emergency planning district, the local emergency planning committee shall send a copy of the plan to the Mississippi Emergency Response Commission. The Commission shall review the plan and make recommendations in writing to the committee on revisions of plan that may be necessary to ensure coordination of such plan with plans of other local emergency planning districts. The committee shall review such a plan once a year, or more frequently, as circumstances in the community or at any facility may require. The emergency plan shall cover, as a minimum, the following:
 - 1) Identification of facilities and transportation routes for extremely hazardous materials;
 - 2) Emergency response procedures, on site and off site;
 - 3) Designation of a community emergency coordinator and facility emergency coordinator;
 - 4) Emergency notification procedures;
 - 5) Methods for determining the occurrence of a release and the probable affected area and population.
 - 6) Description of the community and industry emergency equipment

- and facilities and the identity of persons responsible for them;
- 7) Evacuation plans;
- 8) Training programs; and
- 9) Methods and schedules for exercising emergency plans. Upon request from the local planning committee.

- b) The owner or operator of a facility shall provide information necessary for developing emergency plans to the local emergency planning committee.

IX. Substances and Facilities Covered

- a) Substances — A substance is subject to the provisions of the Act if listed in 40 CFR 355. (See Appendix A)
- b) Facilities
 - 1) Any facility is subject to the requirements of Title III and this rule if that facility has present a substance specifically listed in Appendix A in an amount in excess of the established threshold planning quantity.
 - 2) The Commission may designate additional facilities as subject to the Act for the purpose of emergency planning. Such additional designations will be made only after public notice and opportunity for comment. The Commission shall notify the facility and the local emergency planning committee concerned of any additional designations under this section.

X. Notification

- a) Emergency Planning Notification

No later than May 17, 1987, the owner or operator of a facility subject to the requirements of Section IX b) 1) of this rule and Section 302 b) (1) of the Act shall notify the Commission that their facility is subject to the requirements of Title III and this rule. The notification shall be in writing and addressed to the Chairman, Mississippi Emergency Response Commission, P.O. Box 4501, Jackson, Ms 39216-0501. As a minimum, the notification will include the name of the facility, location, mailing address, telephone number and the name of a contact person.

- b) Follow-on Notification.

After May 17, 1987, the owner or operator of each facility subject to the requirements of Section IX b) 1) of this rule shall notify the Commission that such facility is subject to these requirements. Thereafter, if a substance on the list of extremely hazardous substances first becomes present at a facility in excess of the threshold planning quantity established for each substance, or if there is a revision of such list and the facility has present a substance on the revised list in excess of the threshold planning quantity established for such substances, the owner or operator of the facility shall notify the Commission and the local emergency plan-

ning committee within 60 days after such acquisition or revision that such facility is subject to the requirements of this rule. The notification shall be in writing, as above. The Commission shall notify the USEPA of each facility providing notification.

c) Facility Emergency Coordinator

The owner or operator of a facility shall designate a facility emergency response coordinator. The facility shall Notify the local emergency planning committee of this designation on or before September 17, 1987, or 30 days after establishment of the committee, which ever is earlier. If there is no committee established, the notification shall be provided to the Commission.

XI. Emergency Notification

a) Applicability

- 1) This section applies to any facility at which a hazardous chemical is produced, used or stored and at which there is a release in excess of a reportable quantity of any extremely hazardous substance listed in 40 CFR 355 or a CERCLA hazardous substance.
- 2) This section does not apply to any release which results in exposure to persons solely within the boundaries of the facility; any federally permitted release (Section 101 (10) of CERCLA); any continuous release (Section 103 (f) of CERCLA); or any release exempt from CERCLA Section 103 (a) reporting.

b) Notification Requirements

Notice shall be given immediately to the emergency response coordinator of the local emergency planning committee by calling the number established and to the Commission by calling 1-800-222-6362 in Mississippi.

c) Content of Notification

The notification shall include the following to the extent known at the time of notification and so long as no delay in notice or emergency response results:

- 1) The chemical name or identity of the substance;
- 2) Whether it is an extremely hazardous substance;
- 3) The estimated quantity of the release;
- 4) The time and duration of the release;
- 5) The medium or media into which the release occurred;
- 6) Any known or anticipated health risks;
- 7) Protective action recommendations; and
- 8) The name (s) and telephone number (s) of person (s) to be contacted for further information.

d) Written Follow-up Notification

As soon as practicable after a release which requires notice, a

written follow-up notice will be made to update the data previously provided, and shall including the following additional information:

- 1) Actions taken to respond to and contain the release;
- 2) Any known or anticipated health risk associated with the release; and
- 3) Where appropriate, advice regarding medical attention for exposed individuals.

e) Transportation Release Notification

An owner or operator of a facility from which there is a transportation related release may meet the requirements of this section by calling 1-800-222-6362 and providing the information in paragraph XI c). For the purpose of this paragraph, a "transportation-related release" means a release during transportation or storage incident to transportation if the stored substance is moving under active shipping papers and has not reached its ultimate consignee.

XII. Reporting Requirements

"Reporting requirements will be those published as the final regulations under Subtitle B, Sections 311, 312, and 313 of the Act.

XIII. Public Availability of MSDS, Plans and Forms

- a) Each emergency response plan, material safety data sheet, list described in Section 311 (a) (2), inventory form, toxic chemical release form and follow up emergency notice is to be made available to the public, consistent with Section 322 of the Act, on request to the Commission or the local emergency planning committee. Information shall be available to the general public at the Mississippi Emergency Response Commission, 1410 Riverside Dr., P.O. Box 4501, Jackson, Ms. 39216-0501, during normal working hours in accordance with Section 25-61-1, Mississippi Code of 1972, the Mississippi Public Records Act of 1983. Each local emergency planning committee shall designate a location where relevant information may be obtained. Upon request by an owner or operator of a facility subject to the requirements of Section 312 of the Act, the Commission and the appropriate local emergency planning committee shall withhold from disclosure, under the section, the location of any specific chemical required by Section 312 (d) (2) of the Act to be contained in an inventory form as Tier II information.
- b) Each local emergency planning committee must annually publish a notice in local newspapers that the emergency response plan, material safety data sheets, and inventory forms have been submitted under this section. It shall also announce that any member of the public may review the emergency response plan, MSDS, inventory forms at its designated location, during specified times..