



***LOUISVILLE AND JEFFERSON COUNTY
HAZARDOUS MATERIALS ORDINANCE
APPEALS AND OVERSEERS BOARD***

ANNUAL REPORT

for

JANUARY 1, 2012

TO

DECEMBER 31, 2012

DISTRIBUTION LIST FOR THE APPEALS & OVERSEERS
ANNUAL REPORT

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TABLE OF CONTENTS

AUTHORITY AND PURPOSE OF HMO	PAGE 1
APPEALS AND OVERSEERS BOARD	PAGE 2
EXECUTIVE SUMMARY	PAGE 3
INDUSTRIAL WASTE DEPARTMENT EMERGENCY RESPONSE/HMPC PROGRAM UPDATE	PAGE 4
KEY STATISTICS FOR REPORTING YEAR	PAGE 5
TABLE OF ENFORCEMENT ACTIONS TAKEN DURING REPORTING YEAR	PAGE 6
BOARD MEMBERSHIP	PAGE 8
GRAPH OF REPORTED EMERGENCY RESPONSE INCIDENTS.....	PAGE 9

HAZARDOUS MATERIALS ORDINANCE

AUTHORITY AND PURPOSE

The authority for the Hazardous Materials Ordinance (HMO) is KRS 67C.115(2), Chapter 95 of the Louisville Metro Code of Ordinances currently Ordinance 121, Series 2007.

The purpose of the HMO is for the protection of public health and safety in Louisville Metro, through prevention and control of hazardous materials incidents and releases and to require timely reporting of releases.

APPEALS AND OVERSEERS BOARD

The Appeals and Overseers Board was created under Section 12 of the HMO, December 1985 (currently Section 95.13 of Ordinance 121, Series 2007). The purpose of the Board is to ensure that an appeal process is made available to those persons aggrieved by an enforcement action of the administering agency (MSD) under the HMO. An appeal may question the adequacy of a Hazardous Materials Spill Prevention and Control Plan (HMPC Plan) and/or a penalty imposed under the HMO. Upon receipt of an appeal, the Appeals and Overseers Board schedules a hearing with MSD and the complainant to review the case and offers recommendations for a solution.

The Board also serves to coordinate and integrate the policies and procedures of the regulating agencies regarding application of the HMPC Plans. In addition, the Board will review proposed amendments or modification of the HMO and submit appropriate recommendations to the Council members of the Greater Louisville Metro Government.

Each year the Board prepares a summary of its activities and those of the administering agency (MSD) for submittal to the Mayor. This report covers the period from January 1 to December 31, 2012.

The HMO Appeals and Overseers Board is committed to meeting the needs of those to whom it reports each year. To that end, the Board welcomes your feedback and comments regarding the information presented in this report. Please direct comments to Scott Porter, MSD Environmental Attorney.

The Board wishes to express its gratitude to the MSD staff for their continued excellence in providing support and assistance. The help of Scott Porter, Janice Cox, Daymond Talley, Gary Kohler, Jeff Nalley, Adraine Niehoff, James Heid, Ken Nichter, Kandyce Groves, Bob Pifine, Mike Moore, Peggy Burgin, Vikki Huelsman and Lisa A. Gaus is particularly appreciated and acknowledged.

EXECUTIVE SUMMARY

METROPOLITAN SEWER DISTRICT (MSD)

The Louisville and Jefferson County Metropolitan Sewer District (MSD) is the administering agency for the HMO. MSD is the approval authority for Hazardous Material Spill Prevention Control (HMPC) Plans. During the reporting year, there were 1755 companies in Jefferson County that had approved HMPC Plans and 1542 companies that had approved HMPC Exemptions. Exemptions from an approved HMPC Plan are based on Section 95.07(B) of the HMO and include companies that handle small quantities of hazardous materials which could not cause a dangerous release.

From January 1, 2012 to December 31, 2012, MSD received 207 reports of hazardous material and other type incidents, conducted 309 HMPC and exemption inspections, approved 33 HMPC plans and approved 37 HMPC exemptions. During that same timeframe, MSD collected \$2,100 in HMPC plan fees.

The Appeals and Overseers Board held a meeting on April 24, 2012. Below are highlights of the Board's activities in 2012:

1. Revised HMO Appeals and Overseers Board Bylaws were approved; and
2. Revised HMO Appeals and Overseers Board Ethics Policy was approved.

INDUSTRIAL WASTE DEPARTMENT
EMERGENCY RESPONSE AND HMPC PROGRAM UPDATE

The HMO requires industrial and commercial businesses that manufacture, use, or store reportable quantities of listed hazardous materials or substances to submit a plan that addresses what spill prevention and control will be in effect for those hazardous materials, as well as how releases of those materials will be reported to appropriate authorities. The documentation required is known as the Hazardous Material Spill Prevention and Control Plan (HMPC plan). The main objective of the HMPC plan is to obtain pertinent information/data about an industry's chemicals on site, and facilities and structures used to contain, process and store hazardous materials. Also required are detailed disclosures of equipment, maps, plans and materials that will be used to mitigate releases and/or spills. The plans account for or identify sewer facilities on site, describe training requirements for employees, and include an Attachment outlining the industrial facility's spill plan.

As administering agency for the HMO, MSD is responsible for reviewing and approving HMPC plans and exemptions, conducting inspections at businesses with a HMPC plan, responding to hazardous materials incidents in Metro, determining whether violations of the HMO have occurred and imposing appropriate enforcement actions (correction notices, notices of violation and/or administrative fines) on the responsible parties involved in the violation. MSD is part of the Metro response community along with other agencies such as Louisville and Suburban Fire Departments, Metro Public Health and Wellness, and the Metro Emergency Management Agency, as well as various State response agencies. MSD is committed in its continued cooperation with other response agencies to maximize the community's resources in order to provide the best possible emergency response in our community. It is recognized and acknowledged by MSD that the program's success is in large part due to the dedication and commitment displayed by all of the agencies involved in emergency response in this community.

During this reporting period, MSD Emergency Response Pretreatment Inspectors (ERPis) continued all of the activities associated with the HMO including HMPC Plan and Exemption review and approval, inspections, Incident Response, and MSD Customer Relations Request Response. In addition, MSD continued to administer the Incident Response Mitigation and Treatment Plant Upset Kit Programs and to hold bi-weekly Response Group Meetings (RGMs).

Additionally, ERPIs have continued entering chemical inventory information into the HANSEN inventory database. MSD has entered inventory for over 99 percent of the companies in Jefferson County. This data will continue to be shared with other emergency response agencies upon request to assist emergency response and long-term planning efforts. All of the hazardous material data collected has geographic coordinates associated with it. Using a Geographic Information System (GIS) to enhance emergency response and hazardous materials planning has given MSD a strategic advantage when analyzing the storage of materials in different parts of the county and ultimately a better understanding of the risk associated with the use of those materials.

Key statistics for January 1 through December 31, 2012 are as follows:

Hazmat and Other Type Investigations	312
Inspections (HMPC and Exemption)	309
HMPC Plans Approved	33
Exemptions Approved	37
HMPC Fees Collected.....	\$2,100
Fines Levied by MSD	None
Fines Levied by EMA	None

The following table lists enforcement actions taken for violations of the HMO for the period January 1 – December 31, 2012. The table lists the enforcement actions by incident number.

COMPANY	INCIDENT NUMBER	DATE OF VIOLATION	MATERIAL RELEASED	REASON FOR VIOLATION	SECTION OF HMO VIOLATED
Grauer Real Estate, LLC c/o Bluegrass Sealing & Striping, Inc.	10238	11/29/11	Various materials and oils	Notice of Violation for improper storage of hazardous materials	95.07 (L)
Safety-Kleen Systems, Inc.	10264	01/23/12	Used oil	Notice of Violation for delayed notification to "911"	95.06 (A) (1)
Sypris Technologies	10265	01/24/12	Coolant	Notice of Violation for delayed notification to "911"	95.06 (A) (1)
Chevron Lubricants	10266	01/25/12	Motor oil	Notice of Violation for delayed notification to "911"	95.06 (A) (1)
Reynolds Consumer Products	10328	04/16/12	Magiesol 44 petroleum product	Notice of Violation for failure to notify "911"	95.06 (A) (1)
Thornton Oil Company	10363	06/30/12	Gasoline	Notice of Violation for failure to train employee on HMPC Plan requirements	95.07 (H) (1)
Louisville Zoological Garden	10381	07/20/12	Used oil	Notice of Violation for failure to maintain spill prevention and control equipment	95.07 (L) (4)

COMPANY	INCIDENT NUMBER	DATE OF VIOLATION	MATERIAL RELEASED	REASON FOR VIOLATION	SECTION OF HMO VIOLATED
Louisville Gas and Electric Company	10407	10/01/12	Dielectric oil (non-PCB)	Notice of Violation for failure to follow a HMPC Plan and failure to train employee on HMPC Plan requirements	95.07 (L) (2) & (3)
Brown-Forman Corporation	10411	07/26/12	80 proof alcohol	Notice of Violation for failure to notify "911" and failure to train employees on HMPC Plan requirements	95.06 (A) (1) and 95.07 (H) (1)
Miller Oil Company	10421	10/26/12	Gasoline	Notice of Violation for failure to notify "911"	95.06 (A) (1)

APPEALS AND OVERSEERS

BOARD MEMBERSHIP

Mr. A. Gilliam Alexander, Jr. Chairperson	Consultant Community
Mr. Matthew Rhodes Vice-Chairperson	Response Community
Mr. Tom Herman Recorder	Industrial Community
Mr. Jonathan D. Miller	General Public
Mr. W. Michael Winkler	Industrial Community
Colonel Douglas V. Recktenwald	Response Community
Mr. Creg Browne	Industrial Community
Chief David Goldsmith	Response Community
Ms. Susan Chaplin	General Public

MSD STAFF ASSISTANCE

Mr. Scott Porter	Environmental Attorney
Mr. Gary Kohler	Response Pretreatment Specialist
Ms. Lisa A. Gaus	Emergency Response Pretreatment Administrator
Mr. Jeff Nalley	Emergency Response Pretreatment Inspector
Mr. Mike Moore	Emergency Response Pretreatment Inspector
Mr. James Heid	Emergency Response Pretreatment Inspector
Mr. Bob Pifine	Emergency Response Pretreatment Inspector
Mr. Ken Nichter	Emergency Response Pretreatment Inspector
Ms. Adraine Niehoff	Emergency Response Pretreatment Inspector
Mrs. Kandyce Groves	Emergency Response Pretreatment Inspector
Ms. Peggy Burgin	Pretreatment Technician
Mrs. Vikki Huelsman	Administrative Coordinator

