

**North Carolina Department of Labor
Occupational Safety and Health Division**

Raleigh, North Carolina

Field Information System

Operational Procedure Notice 107B

Subject: Enforcement Guidelines for the Hazardous Chemicals Right to Know Act

A. **Purpose and Scope.**

The Hazardous Chemicals Right to Know Act (NCGS Chapter 95, Article 18, hereinafter "RTK Act") was enacted in 1985 by the North Carolina General Assembly. The act requires all employers who manufacture, process, use, store, or produce hazardous chemicals, to compile and maintain a Hazardous Substance List for each chemical stored in the facility in quantities of 55 gallons or 500 pounds, whichever is greater. The employer will provide the list to the fire department for the jurisdiction where the facility is located. The authority to inspect and investigate complaints of violations of the RTK Act was given to the commissioner of labor. This document serves as a directive for enforcement of the RTK Act by the Occupational Safety and Health (OSH) Division.

B. **Action.**

Pursuant to NCGS 95-194, each employer is required to provide a simple written Hazardous Substance List to the fire chief of the fire department having jurisdiction over the facility. In addition to listing hazardous substances, it must also state the name(s) and telephone number(s) of knowledgeable employer representatives in case of an emergency. Generally, a list should be updated quarterly, but the list must be updated on an annual basis. If the employer goes through a significant change [the list is added to, deleted from, or the quantity changes sufficiently enough for the chemical(s) to be in a different class under NCGS 95-191(a)(2)], then the list should be updated within 30 days of such a change. Employers may use information specified by the Superfund Amendments and Reauthorization Act of 1986 (*a.k.a.* SARA, Title III) as a substitute for the Hazardous Substance List.

Employers have 14 days following receipt of written notices of violation to correct a violation of the RTK Act. Employers who do not come into compliance in that 14 day period are subject to a maximum civil penalty of \$1000 per violation per day.

C. **Enforcement.**

Enforcement of the RTK Act will proceed based only upon complaints received by the OSH Division. If a complaint is received, the compliance bureau will conduct an inspection. The compliance officer may expand the inspection to a comprehensive inspection based on guidance in FOM Chapter IX. If the compliance officer finds a violation of the RTK Act, the compliance officer will provide the employer with a copy of the order below. The order must be dated by the compliance officer and signed by the employer. The order will serve as written notification to the employer of a violation of the RTK Act.

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The compliance officer will contact the requesting fire department on the 15th day after providing the order to verify that the fire department has received the requested information. If the fire department has not received the information requested in the order, the compliance officer will report this information to the district supervisor. On the 15th day, the compliance officer will mail a letter to the employer notifying the employer that the OSH Division verified that the employer did not comply with the information request in the order and that fines will incur from that day forward until the information is provided to the fire department.

D. **Effective Date.**

OPN 107A is canceled. This OPN is effective on the date of signature. It will remain in effect until revised or canceled by the director.

Signed on Original
Susan V. Haritos
Health Standards Officer

Signed on Original
Allen McNeely
Director

11/20/2014
Date of Signature

ORDER

YOU HAVE BEEN FOUND TO BE IN VIOLATION OF THE HAZARDOUS CHEMICALS RIGHT TO KNOW ACT

(Chapter 95, Article 18 of the North Carolina General Statutes)

You currently store hazardous materials which are subject to this Act at:

(Physical Address)

A copy of the Act is being provided to you. You are required to submit a written list of all hazardous chemicals found at this location to the fire department that would respond to this facility in event of a fire or emergency situation. **You must provide the written list immediately.** The list should be updated on a quarterly basis and must be updated annually.

Failure to submit this written list to the local fire department within 14 days of this date will result in the assessment of fines in the amount of \$1,000 per violation per day.

This order is your first and only notice of violation of the Act. If you do not comply within the specified 14 day period, fines will be assessed beginning on the 15th day from the date below.

This the _____ day of _____, 20__.

RECEIVED BY: _____
(Print full name of employer)

(Signature of employer)

PROVIDED BY: _____
(Print full name of compliance officer)

(Signature of compliance officer)