

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

Raleigh, North Carolina

Field Information System

Operational Procedure Notice 107A

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 Division of Occupational Safety and Health.

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 G.S.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 Division of Occupational Safety and Health. If a complaint is received by OSH regarding a violation of the RTK Act, the inspection will be handled by the Bureau of Compliance. The Compliance Officer may expand the inspection to a full inspection based on current policy. Upon finding an actual violation of the RTK Act, the Compliance officer shall provide the employer with a copy of the attached [Order](#). The Order must be dated by the Compliance Officer and signed by the employer. The Order will serve as the required written notification to the employer of a violation of the RTK Act.

The Compliance Officer will follow-up on the fifteenth day after providing the Order by contacting the appropriate fire department to verify that the employer has provided the required information. If the employer has not complied with the statutory requirements, the Compliance Officer will report this information to the District Supervisor. On the fifteenth day, a letter will be mailed notifying the employer that OSHNC verified that the

OPN 107A cont'd.

employer is not in compliance, and that fines are being incurred from that day forward until the written Hazardous Substance List is provided to the appropriate fire department. District Supervisors have the authority to begin penalizing employers on the fifteenth day.

Signed on Original

Susan V. Haritos
Health Standards Officer

Signed on Original

Robert K. Andrews, Jr.
Director

4/24/00

Date of Signature