



GUILFORD COUNTY
DEPARTMENT OF EMERGENCY SERVICES
EMERGENCY MANAGEMENT DIVISION



**Emergency Planning and Community
Right to Know Act (EPCRA)
And
North Carolina Right to Know (NCRTK) Act
Compliance Guide**

A Business and Industry Guide

Prepared by Guilford County Emergency Management for
the Guilford County Local Emergency Planning Committee



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INTRODUCTION

Guilford County Emergency Management prepared this guide on behalf of the Guilford County Local Emergency Planning Committee (LEPC) to assist Guilford County businesses in compliance with Federal P.L. 99-499, Title III of the Superfund Amendments and Reauthorization Act (SARA Title III) - The Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986.

The filing of Tier II Reports is a Federal requirement which requires facilities storing hazardous chemicals above a certain threshold to report on key information about their operation. Part of the reporting includes the submission of a list of these hazardous chemicals stored on their premises. This inventory/list can be a critical life-saving tool for all those who deal with large- or small-scale emergency response involving chemicals. Tier II reporting allows local emergency response organizations to plan and train for the hazardous materials that may be encountered in a response.

The portions of SARA Title III addressed in this compliance document are Sections 302, 303, 304, 311, and 312. These are the sections of the law that apply to the majority of regulated facilities. There will also be a short summary of Section 313 reporting requirements. These requirements apply to facilities with specific North American Industry Classification System (NAICS) codes.

SARA Title III defines a facility as “all buildings, equipment, structures, and other stationary items at a single site, or on adjoining or adjacent sites, owned or operated by the same person.” Reporting requirements under Section 304 (spills) extend to vehicles, rolling stock, and aircraft. This guide is not a complete summary of all rules and regulations. Persons with specific questions about their responsibilities and/or requirements under the law should call the EPA EPCRA hotline toll free at 1-800-424-9346 for more information or refer to the applicable federal regulations. There are potential federal penalties ranging from fines to imprisonment for failure to properly follow the regulations under federal law.

North Carolina has a similar state law called the North Carolina Hazardous Chemicals Right to Know Act (N.C.G.S. § 95-173) requiring the maintenance of a list of chemicals known as a “Hazardous Substance List” that are used and stored on-site and to provide the list of chemicals to the Fire Chief and public upon request. Facilities with questions about EPCRA or the North Carolina Right to Know Act can also contact the North Carolina Emergency Management EPCRA coordinator at 919-436-2746.

This document will be updated as required. We welcome any suggestions for making this document more effective and useful.



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BACKGROUND

On October 17, 1986, Congress passed the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 as part of the Superfund Amendments and Reauthorization Act (SARA). EPCRA is an amendment to the provisions of the Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and is often referred to as either “SARA Title III” or the “Right-to-Know Act.” EPCRA (or SARA Title III) has two primary purposes. First, it establishes a process whereby state and local planning entities can determine the hazardous substances existing within their designated areas and establish emergency procedures and guidelines to be followed in responding to the release of a hazardous substance to the environment. Second, it defines the public’s right to obtain information about hazardous chemicals and substances utilized and stored in the community.

EPCRA (or SARA Title III) requires the Governor of each state to appoint a “State Emergency Response Commission” (SERC), or to act as the SERC until such an appointment is made. On December 17, 1997, Governor Jim Hunt established the North Carolina State Emergency Response Commission by Executive Order No. 125.

North Carolina subsequently passed the North Carolina Hazardous Chemical Right to Know Act, www.nclabor.com/legal/righttoknow.pdf, which is managed and maintained by the North Carolina Department of Labor. The Right to Know Act requires all employers who manufacture, process, use, store or produce hazardous chemicals to maintain a list and the Safety Data Sheets (SDS) of each hazardous chemical stored in the facility in quantities of 55 gallons or 500 pounds.

It is important to recognize that the North Carolina Right to Know Act (NC RTK) has lower reporting thresholds for many chemicals than the thresholds stipulated by SARA Title III. In some instances, facilities may be required to report according to NC RTK standards, but may not have to report as per SARA Title III.

Local Emergency Planning Committees

The primary responsibility of the Guilford County LEPC is to develop an emergency response plan for hazardous materials in the County. The basis of the plan is a hazard analysis, conducted at the local level using a combination of the committee members’ first-hand knowledge of the area, including its resources, traffic patterns, and reporting information submitted by facilities.

Each LEPC must appoint a chairperson; establish rules for conducting business; hold regular meetings which are noticed to the public in advance; develop procedures for receiving, organizing, and storing right-to-know information; establish methods for providing information to the public upon request; and inform the public of the availability of right-to-know information.

EPCRA (SARA Title III) includes nine specific items which the plans must address. These items are summarized below:



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1. Identify the facilities which use or store hazardous substances;
2. Identify the routes used to transport hazardous substances;
3. Outline standard operating procedures for use by facilities and first responders when responding to a release of a hazardous substance;
4. Identify sensitive facilities and their relationship to reporting facilities;
5. Detailed release notification procedures;
6. Indicate how facilities will determine a release and what areas of the community are likely to be affected;
7. Outline evacuation plans for facilities and the community;
8. Establish a schedule for exercising the plan; and
9. Indicate where training is available for hazardous materials incident response.

Once completed this plan must be updated once a year, and more often if changes in the community make it necessary.

Facilities

Facilities are required to file reports under a variety of sections of SARA Title III and North Carolina RTK. The reporting requirements are based on the types of chemicals used or stored, the amounts of these chemicals, the activity or activities in which the facility is engaged, the number of employees, and any releases that may occur. Reporting requirements are discussed in detail later in this document and are summarized below:

- Sections 302 & 303 – These sections require facilities storing more than a minimum amount known as a Threshold Planning Quantity (TPQ) that is set by the EPA of any material on the Extremely Hazardous Substances (EHS) List to report the storage to the LEPC and to the SERC. Facilities are also required to designate a “facility coordinator” who participates in the emergency planning process by providing information and for planning a response to a chemical/hazardous substance release at the facility. Section 302/303 reporting is a one-time requirement. Reporting is triggered when a facility stores an extremely hazardous substance over the TPQ. New facilities reporting are required to submit a report within 60 days of the storage of a reportable chemical. Existing facilities are required to report immediately if it is discovered this report has not been filed previously.
- Section 304 – This section addresses requirements for reporting spills/releases of hazardous substances. This section requires immediate verbal reporting (via telephone) upon the event of a release and submittal of a written follow-up report as soon as practical, both by the Responsible Party (RP). For EHS substances that are spilled or released in quantities at or in excess of their Reportable Quantity (RQ) and the product extends beyond the confines of a facility boundary, the LEPC (through Local Emergency Management by calling 9-1-1) and the State Emergency Response Commission (through



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State Emergency Management) should be contacted. For CERCLA substances that are spilled or released at or in excess of their RQ, Local Emergency Management, State Emergency Management, and the National Response Center (1-800-424-8802) should be contacted. Local Emergency Management will assist with guiding the RP in conducting the required reporting.

- Section 311 – This section requires facilities to report storage of an Extremely Hazardous Substance (stored in excess of the Threshold Planning Quantity or 500 lbs., whichever is lower) and other EPCRA regulated substances stored in excess of 10,000 lbs. New facilities and any facility that begins to store any new reportable chemical must file a 311 report within 90 days of the date the stored quantity of the material first exceeded the threshold. The 311 report need only be submitted once unless there is an inventory change. If a change occurs, the new 311 report must be submitted within 90 days.
- Section 312 – This section requires the submittal of a Tier II form. The reporting thresholds for Section 312 are the same as those for Section 311. There are two big differences between the 311 reporting requirements discussed above and the 312 reporting requirements. First, the Tier II form must be submitted on an annual basis, by March 1 of each year. Second, information on a Tier II form covers storage from the preceding calendar year. Guilford County requires that the Tier II information be submitted electronically via E-Plan. If you submit a paper copy, it will be returned to you and no letter of receipt will be issued.

Due to a need for chemical planning and review, Guilford County began collecting a Hazardous Facility Planning Fee in 2012. The county fee is based upon the quantity of chemicals that are above the Threshold Planning Quantity (TPQ) on-site as reported in the Tier II on E-plan. Facilities receive a bill for this fee from Guilford County during the third quarter of each calendar year.

On January 1, 2015, North Carolina began collecting a Tier II fee from facilities that are required to file under EPCRA. The state's fee is calculated based on the number of reported chemicals and collected by E-plan at the time of report submission.

- Section 313 – This section covers manufacturing facilities. The 313 report submittal goes directly to the Federal Environmental Protection Agency and is required annually, by July 1. Regulated facilities are defined as those which:
 1. Have 10 or more full-time employees;
 2. Have a specific NAICS Code; and
 3. Manufacture, process, or import more than 25,000 lbs., or otherwise use more than 10,000 lbs. of chemicals on the Section 313 list.



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If a facility meets all three Requirements, a Toxic Chemical Release Inventory (TRI) form must be submitted. Amounts reported are for the preceding calendar year.

- The North Carolina Right to Know Act (NCRTK) requires all employers who manufacture, process, use, store, or produce hazardous chemicals to compile and maintain a Hazardous Substance List which shall contain information for each hazardous chemical stored in the facility in quantities of 55 gallons or 500 pounds, whichever is greater. A copy of the Hazardous Substance List shall also be submitted annually to the local Fire Department having jurisdiction. This may be submitted via EPlan.

The reporting requirements discussed above are explained in more detail in the body of this compliance document. Because of the differences in thresholds and reportable quantities, it is important to consider your reporting responsibility section by section. This guide is designed to be used as a workbook for reporting.

REPORTING REQUIREMENTS UNDER SECTIONS 302 AND 303

Facilities that store Extremely Hazardous Substances (EHS) in quantities exceeding the Threshold Planning Quantity (TPQ) must designate a facility coordinator. The name of the designated facility coordinator must be provided to the Local Emergency Planning Committee (LEPC), Fire Department, and State Emergency Response Commission (SERC). This notification is completed through submittal of a Section 302/303 Notification Form. The option for submitting the 302 notification electronically exists through the E-Plan program.

Exemptions (certain facilities and containers):

Transportation facilities and shipping vessels are excluded as a class from Section 302 and 303 reporting requirements. It is important to note that such facilities may still have reporting requirements under Sections 304, 311, 312, and 313.

All other facilities and containers:

Many different types of facilities may have reporting requirements under Sections 302 and 303. Examples of such facilities include but are not limited to: water and wastewater treatment plants, schools, pesticide applicators, hospitals, municipalities, mining operations, manufacturers, service stations, farms, and swimming pools.

Follow these steps to determine if you need to notify under Sections 302 and 303:

1. Prepare an inventory/list of all chemicals or substances stored at your facility;
2. Make sure you have a Safety Data Sheet (SDS) for each chemical or substance you store on-site. Your supplier should be able to provide you with the SDS;
3. Reference the EPA's "List of Lists". The List of Lists can be found in searchable database form at www.epa.gov/epcra/consolidated-list-lists. Please note that chemicals



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are not identified by brand name or manufacturer name, so you need to consult your SDS. The SDS will provide you with “technical” names for your product and its ingredients, along with Chemical Abstract Service (CAS) numbers that you can compare against those provided in the List of Lists;

4. If your chemicals or substances (or one of the ingredients of your chemicals or substances) is listed as an EHS, make a note of the Threshold Planning Quantity (TPQ). For chemicals that are solids, there are two TPQs listed. In these cases, the lower quantity applies for solids in powder form with a particle size less than 100 microns, or if the substance is in solution or in molten form. Otherwise, the larger TPQ applies. Every EHS indicated in the List of Lists has a TPQ:
 - a. Chemicals or substances that are listed as EHS’s in the List of Lists (and those with listed ingredients) are potentially reportable under Section 302;
 - b. Chemicals or substances that are not listed as EHS’s in the List of Lists (and those that have no ingredients listed as EHS’s) are not reportable under Sections 302 & 303. Please note such chemicals may still be reportable under Sections 304, 311, 312, and 313. If any chemical or substance you store is a mixture with multiple ingredients, skip to item number 5 below. If any chemical or substance you store is a pure chemical, compare the total weight with the TPQ then go to item number 6 below. Keep in mind that separate tanks of the same chemical must be added together when you are figuring weight;
5. If a chemical or substance you store is a mixture with multiple ingredients, you have two options for determining your storage amount:
 - a. Treat the mixture as if it is a pure chemical (as above in item number 4). This option is simple and requires few calculations. If any ingredient is an EHS, compare the weight of the entire mixture to the TPQ for the ingredient then go to item number 6 below; or
 - b. Calculate the actual weight for each ingredient. This option can be complex and may require many calculations. Should you choose to do this, you must add together all chemicals/substances at your facility. For example, if you store two substances, each of which contains phorate, you would first calculate the weight of phorate in each of the two mixtures, then you would add the phorate weights together to determine if you exceeded the TPQ for phorate;

NOTE - You must be consistent and choose to use only one of the above listed methods. You **must not** mix the two methods for determining the amount you store.

6. If the maximum weight of each chemical or substance is less than the TPQ for that chemical or substance, you do not have to report under Section 302/303 or file a 302/303 notification; and
7. If the maximum weight meets or exceeds the TPQ, you must file a 302/303 report. Your notification must be filed within 30 days of beginning reportable chemical storage.



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Re-notification: If you filed a 302/303 notification in the past, you do not have to re-notify unless contact information for the facility coordinator has changed or there has been a change in an EHS stored at the facility. If there has been a change, you must file a new notification form. Your new notification must be filed within 30 days of the facility change.

HINT – if you determine you are required to file a 302/303 notification, it is very likely you will ALSO need to submit a 311 report and a 312 report.

REPORTING REQUIREMENTS UNDER SECTION 304

ALL facilities are subject to spill/release reporting requirements.

Reportable Spills/Releases:

If your facility experiences a release of an Extremely Hazardous Substance (EHS) or a substance listed under Section 103 of the Comprehensive Environmental Responsibility, Compensation, and Liability Act (CERCLA), the release may be federally reportable.

Federally reportable substances and their reportable quantities (RQ) are recorded in the EPA's List of Lists located at www.epa.gov/epcra/consolidated-list-lists.

A spill/release to the environment that meets or exceeds the Section 304 EHS RQ and migrates beyond a facility boundary is reportable to the Local Emergency Planning Committee (LEPC) and the State Emergency Response Commission (SERC). You must immediately report the spill/release to 9-1-1, the LEPC through Guilford County Emergency Management, and the SERC through the North Carolina Division of Emergency Management. A spill/release beyond an enclosed structure that meets or exceeds the CERCLA RQ specified in the "List of Lists," is federally reportable. You must IMMEDIATELY report the spill/release to 9-1-1, to the National Response Center, the LEPC through Guilford County Emergency Management, and the SERC through the North Carolina Division of Emergency Management.

It is good practice to report a spill or release to 9-1-1 and the National Response Center if there is any doubt as to whether or not a report is federally required.

Additional Information:

The following information must be provided when you report a spill/release:

- The identity of the substance spilled/released (if known);
- The amount/size of the spill/release (if known);
- Any known or potential human health effects or hazards;
- Any known or potential environmental impacts;
- The location of the spill/release;



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- The time of the release;
- The identity of the responsible party;
- The responsible party's contact telephone number;
- The responsible party's mailing address; and
- Current and/or planned response actions.

The responsibility for reporting rests with the responsible party. Reporting by an outside party such as a fire department DOES NOT relieve an RP of their responsibility for reporting the incident. The responsible party or an authorized facility representative must formally report the spill/release, even if it is believed authorities are already aware of the incident. Failure to fulfill this IMMEDIATE NOTIFICATION requirement is the Title III violation that most often triggers federal enforcement actions and penalties.

After you have made your initial report, you must provide a written follow-up report. You also have the opportunity to include additional information about the release and the response actions taken. In the case of some federally reportable spills/releases, the Environmental Protection Agency (EPA) may send you another form to complete and return.

When a spill/release occurs, the facility/responsible party is required to perform cleanup. Guilford County Department of Health and Human Services' Environmental Health Section will review, advise, and monitor the progress of the cleanup.

REPORTING REQUIREMENTS UNDER SECTIONS 311 AND 312 (TIER II)

The Hazard Communication Standard (1910.1200) of the Occupational Safety and Health Administration (OSHA) requires suppliers of chemical products to provide Safety Data Sheets (SDS) to their customers. It also requires employers to make these documents readily available to their employees.

If your facility is subject to the requirements of the OSHA Hazard Communication Standard or if you are required to supply or keep SDS, your facility may be subject to reporting requirements under Sections 311 and 312 (Tier II).

The Tier II form is a chemical inventory form that ensures compliance with Sections 311 and 312 and is provided to the State Emergency Response Commission, the Guilford County Local Emergency Planning Committee, and the local Fire Department. All Tier II forms are submitted through the web-based E-Plan system (www.erplan.net) and one submission through E-Plan will fulfill the reporting requirements for all three entities. The Tier II forms are required to be submitted by March 1 of each year based on the previous year's data. Once the submission is complete, E-plan will calculate the Tier II fee to be paid to The State of North Carolina and an



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invoice will be generated. The invoice must be paid in order to finalize submission of the Tier II Report. Once the invoice has been paid the person registered in the system will receive a receipt from the E-Plan system that the information was received. This receipt should be kept on file in case of inspection by local, state or federal officials.

Exempt Chemicals:

There are several exempt chemicals under Sections 311 & 312 (Tier II):

- Chemicals used in routine agricultural operations by the end user;
- Fertilizers held for retail sale to the ultimate consumer (This only applies to fertilizer. It does not apply to substances that are mixed to make fertilizer or to fertilizer products blended with other chemicals);
- Substances contained as a solid in a manufactured article, to the extent that exposure to the substance does not occur under normal conditions of use;
- Foods, food additives, color additives, drugs, or cosmetics that are regulated by the Food and Drug Administration;
- 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;
- 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; and
- Retail gas stations that maintain less than 75,000 gallons of gasoline or 100,000 gallons of diesel fuel in regulated underground storage tanks. Note that these are two of the few chemicals, if not the only two, that are measured in gallons rather than pounds.

OSHA 1910.1200 also exempts the following from the requirements of the Hazard Communication Standard, therefore they would also be exempt from EPCRA Section 311/312:

- Hazardous Waste, as described by the Solid Waste Disposal Act;
 - Hazardous Waste guidance for Guilford County facilities can be found at <https://www.guilfordcountync.gov/our-county/emergency-services/lepc/hazardous-waste-generator-arrangements-with-local-authorities>
- Tobacco and tobacco products; and
- Wood and wood products

If you believe you may be covered by one of the exemptions, contact the North Carolina Division of Emergency Management EPCRA Coordinator at 919-825-2277 for more information.

All Other Chemicals:

In order to determine if you have to file Section 311 and Section 312 (Tier II) reports, you need to determine the maximum on-site storage weight at any one time and the reportable quantity for each chemical or substance:



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1. Prepare an inventory/list of all chemicals or substances stored at your facility.
2. Make sure you have a Safety Data Sheet (SDS) for each chemical or substance that you store on-site. Your supplier should be able to provide you with Safety Data Sheets.
3. If the chemical or substance you store is a mixture of several ingredients, skip to item number 4 (below). If the material you store is a pure chemical, determine the total weight of what you store on-site. Keep in mind that separate tanks of the same chemical must be added together when you are figuring weight. Once you have determined the weight for the chemical, go to item number 5 (below).
4. If the material you store is a mixture with multiple ingredients, you have two options for determining your storage amount:
 - a. You can treat your mixture as if it is a pure chemical (as in item number 3 above). This option is simple and requires few calculations. For example, instead of identifying and calculating weights for each and every ingredient in a mixture such as Roundup, you can just say that you store Roundup. If you choose this option, go to item number 5; or
 - b. You can calculate the actual weight for each ingredient in your mixture. This option can be complex and may require many calculations. Should you choose this option, you must add together all chemicals/substances at your facility. For example, if you store two substances, each of which contains phorate, you would first calculate the weight of phorate in each mixture, then you would add the phorate weights together to get the total weight for the ingredient;
 - c. Once you have completed this step, go to item number 5 below.

NOTE - You must be consistent and choose to use only one of the above listed methods. You **must not** mix the two methods for determining the amount you store.

5. Compare your inventory list and the storage amounts for each chemical (or ingredient), to the Extremely Hazardous Substances (EHS) List. A searchable version of the EHS list may be found on the internet at www.epa.gov/epcra/consolidated-list-lists. It is possible that some or all of the chemicals on your inventory list are not listed in the EHS list. However, because the EHS list does not identify chemicals by brand name or manufacturer name, check the SDS. The SDS will provide you with proper chemical names and Chemical Abstract Service (CAS) numbers for the ingredients of your product so you can compare them to the EHS list.
6. If your chemical (or an ingredient for which you determined weight as in step 4 above) is on the EHS list, and if you store more than the Threshold Planning Quantity (TPQ), it is Section 311 and 312 reportable. Chemicals that are solids have two TPQs listed. The lower quantity applies to solids in powder form that have a particle size less than 100 microns, or if the substance is in solution or in molten form. Otherwise, the larger quantity applies.



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7. If your chemical or substance (or an ingredient for which you determined weight as in step 4 above) is on the EHS list, and if you store 500 pounds or more, it is Section 311 and 312 reportable.
8. If your chemical or substance (or an ingredient for which you determined weight as in step 4 above) is not in the EHS list, the reporting threshold is, by default, 10,000 pounds. This means that if you store 10,000 pounds, it is Section 311 and 312 reportable. (There is an exception for gasoline and diesel fuel at retail service stations, when it is stored in underground tanks that are in full compliance with the Underground Storage Tank regulations. The reporting threshold for gasoline in such tanks is 75,000 gallons and the reporting threshold for diesel fuel in such tanks is 100,000 gallons).
9. If your chemical is not Section 311 and 312 reportable, you may report voluntarily. Some facilities choose to do so because they fall just short of the reporting threshold but believe emergency responders should be aware of the on-site chemical storage. Chemicals that are reported via EPlan that are below the 311 & 312 reportable quantities are not subject to the Guilford County Hazardous Materials Planning Fee.
10. **311 Report:** You must file a 311 notification if you have opened a new facility, if you failed to submit a Section 311 in the past, if you have had a change in your inventory, or if you have discovered significant new chemical hazard information. Section 311 reports may be submitted through the E-Plan system (www.erplan.net). Once you have filed a 311 report, you do not have to re-file unless there is an inventory change. Section 311 notifications are due within 90 days of beginning chemical storage, discovering new information, or a change in inventory.
11. **Tier II Report (312 Report):** Section 312 reporting requires the submission of a Tier II form. This notification differs from 311 notification in that it is an annual report due by March 1 of each year. It is also different because the information you submit is for chemical storage during the preceding calendar year (for example, the report due March 1, 2016, is a report on storage that occurred during calendar year 2015). You must file your Tier II forms through the E-Plan system (www.erplan.net).

FYI - If you determine you have to submit a 311 report, you will also have to submit annual 312 (Tier II) reports and vice versa.

Once you have submitted a 311 report, you do not need to resubmit the report again, unless you have an inventory change that is reportable under Sections 311 and 312. Facilities frequently forget to resubmit their 311 reports when there is an inventory change.

REPORTING REQUIREMENTS UNDER SECTION 313

The reporting requirement under Section 313 of the Emergency Planning and Community Right to Know Act (EPCRA or Title III of Superfund Amendments and Reauthorization Act of 1986 (SARA)), Public Law 99-499 is referred to as the Toxic Chemical Release Inventory (TRI). This is the same as “Form R” and “TRI” reporting. Under Section 313, facilities are required to report



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the amount of certain toxic chemicals released to the environment and/or managed through recycling, energy recovery, and treatment. Regulated facilities must submit their TRI report to the Federal Environmental Protection Agency (EPA) and a copy to the State Emergency Response Commission (SERC) annually by July 1. The EPA and North Carolina accept electronic reporting through TRI-ME web. Keep in mind this section of this document is just a summary of the federal requirements. Due to the fact that there are substantial federal penalties for failure to report, you are strongly advised to read an unedited and complete version of the federal reporting requirements before making any final decisions about reporting. See www.epa.gov/toxics-release-inventory-tri-program for more information.

Section 313 reporting requirements are summarized below. A facility that meets all three of the following requirements must submit a TRI report:

1. Full-time Employees (FTEs) - The business must have ten or more FTE equivalents. An FTE equivalent is 2,000 hours worked per year. If the total hours worked by all employees and contractors for the facility is 20,000 or more hours in a calendar year, the business meets the 10 FTE requirement;
2. NAICS Code - The facility must be in a specific industry sector. Business activity at the facility must fall under a covered North American Industry Classification System (NAICS) Code. Federal Facilities are an exception to this. They must report regardless of NAICS Code. You may find the NAICS codes at www.census.gov/eos/www/naics/; and
3. Chemical usage - The facility must use, process, or manufacture a Section 313 regulated chemical compound or category in an amount that exceeds the 313 reporting threshold:
 - Reportable chemicals - There are two main types of entries found on the TRI list:
 - a. The first type consists of specific chemicals. These chemicals include solvents such as trichloroethylene, toluene, xylene, benzene, and methanol, toxic gasses such as ammonia and chlorine, mineral acids, pesticides, industrial chemicals, and elemental metals such as silver, lead, manganese, and chromium;
 - b. The second type consists of chemical categories, or groups of chemicals. Some of these are compounds of a specific metal (copper compounds, lead compounds, etc.). Other category examples are polycyclic aromatic compounds, water dissociable nitrate compounds, and diisocyanates.

When a facility uses several chemicals from the same group, the volumes are added together for reporting purposes.

The list of Section 313 reportable chemicals is extensive and is therefore not included in this document. The list may be found on the EPA's website at www.epa.gov/epcra/consolidated-list-lists.

Reporting thresholds – Reporting thresholds differ depending upon whether or not a chemical is considered Persistent, Bioaccumulative, and Toxic (PBT) and if not, how the chemical is actually manufactured, processed, or otherwise used:



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- Manufactured or processed– The threshold for any non-PBT chemical manufactured or processed is 25,000 pounds;
- Otherwise used – The threshold for any non-PBT chemical otherwise used at your facility is 10,000 pounds; and
- PBTs – If the chemical you manufacture, process, or otherwise use is listed as a PBT chemical, the threshold is much lower than the thresholds discussed above. Thresholds for PBT chemicals range from 0.1 grams to 100 pounds. PBT chemicals include aldrin, benzo(g,h,i)perylene, chlordane, trifluralin, dioxin, dioxin-like compounds, heptachlor, hexachlorobenzene, isodrin, lead, lead compounds, mercury, mercury compounds, methoxychlor, octachlorostyrene, pendimethalin, pentachlorobenzene, PCBs, tetrabromobisphenol A, and toxaphene.

NOTE: Reporting thresholds are based upon the amount manufactured, processed, or otherwise used at your facility. It is NOT based upon the amount you actually release (This means you may have to report for a chemical when you did not have any release. In that case, you would report a release of 0 pounds). If your facility meets all three requirements, you must submit a TRI form to EPA and the SERC by July 1 of each year. Amounts reported are for the preceding calendar year (for example, the report you submit on July 1, 2016, is for chemicals manufactured, processed, or otherwise used during calendar year 2015).

The instructions and users guide to Section 313 may be found on the following website under the “Annual Reporting for Facilities” section. Select the appropriate link for TRI reporting forms and instructions for the most current year: www.epa.gov/toxics-release-inventory-tri-program.

Section 313 Reporting Requirement Exemptions

Under certain circumstances, some or all of the reporting requirements under EPCRA Section 313 may not apply to an EPCRA Section 313 chemical at a facility. The following are the major exemptions:

- De Minimis- The de minimis exemption allows facilities to disregard certain minimal concentrations of non-PBT chemicals in mixtures or other trade name products they process or otherwise use when making threshold determinations and release and other waste management calculations. In certain cases you are not required to count the amount of EPCRA Section 313 chemical present in a mixture if its concentration is less than 1 percent of the mixture, or its concentration is less than 0.1 percent of the mixture when the chemical is defined by the Occupational Safety and Health Administration (OSHA) as carcinogenic. The de minimis exemption does not apply to PBT chemicals. The TRI chemical list identifies the de minimis levels for the non-PBT chemicals. The TRI Reporting Forms and guidance documents may be found on the EPA website: www.epa.gov/toxics-release-inventory-tri-program;



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- **Articles-** In considering whether a reporting threshold has been exceeded, you are not required to count toxic chemicals present in articles processed or used at your facility. An “article” is a manufactured item which:
 1. Is formed to a specific shape or design during manufacture;
 2. Has end use functions dependent in whole or in part upon its shape or design during end use; and
 3. Does not release an EPCRA Section 313 chemical under normal conditions of processing or use of that item at the facility or establishments;
- **Specified Uses-** In considering whether a reporting threshold has been exceeded, you are not required to count EPCRA section 313 chemicals that are used at your facility for any of the following purposes:
 - As a structural component of the facility;
 - In routine janitorial or facility grounds maintenance;
 - In foods, drugs, cosmetics, or other items for personal use, including supplies of such items;
 - In motor vehicle maintenance (including motor fuel); or
 - In process water and non-contact cooling water as drawn from the environment or from municipal sources, or in air used either as compressed air or as part of combustion;
- **Laboratory Activities-** In considering whether a reporting threshold has been exceeded, you are not required to count EPCRA Section 313 chemicals that are manufactured, processed, or otherwise used for research or quality control in a laboratory at a covered facility under the supervision of a technically qualified individual. This exemption does not apply to production, processing, or the use of EPCRA Section 313 chemicals in laboratories for distribution in commerce or in pilot plant scale operations; and
- **Owners of Leased Property-** The owner of a covered facility is not subject to reporting under Section 313 if the owner’s only interest in the facility is ownership of the real estate upon which the facility is operated. However, the operator of the facility must report if the reporting criteria are met.

Keep in mind this section of this document is just a summary of the federal requirements. Due to the fact that there are substantial federal penalties for failure to report, you are strongly advised to read an unedited and complete version of the federal reporting requirements before making any final decisions about reporting.



REPORTING REQUIREMENTS UNDER NORTH CAROLINA RIGHT TO KNOW ACT

If you manufacture, process, use, store, or produce hazardous chemicals, as defined by standards adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7) you must compile and maintain a Hazardous Substance List which should contain the following information for each hazardous chemical stored in the facility in quantities of 55 gallons or 500 pounds, whichever is greater:

1. The chemical name or the common name used on the SDS or container label;
2. The maximum amount of the chemical stored at the facility at any time during a given year, using the following ranges:
Class A- which includes quantities of less than 55 gallons or 500 pounds;
Class B- which includes quantities of between 55 gallons and 550 gallons, and quantities of between 500 pounds and 5,000 pounds;
Class C- which includes quantities of between 550 gallons and 5500 gallons, and quantities between 5,000 pounds and 50,000 pounds; and
Class D- which includes quantities of greater than 5500 gallons or 50,000 pounds; and
3. The area in the facility in which the hazardous chemical is normally stored and to what extent the chemical may be stored at altered temperature or pressure.

The Hazardous Substance List should be updated quarterly if necessary, but no less often than annually; however, if a chemical is deleted from, or added to, the Hazardous Substance List, or if the quantity changes sufficiently to cause the chemical to be in a different class, the employer should update the Hazardous Substance List to reflect those changes as soon as practicable, but within 30 days of such change. Changes may be reported by updating the Hazardous Substance List on E-Plan (www.erplan.net).

In lieu of the information required on the Hazardous Substance List, employers can substitute the Tier II Report required by EPCRA Section 312.

The Hazardous Substance List should be prepared for the facility as a whole, or for each area in a facility where hazardous chemicals are stored, at the option of the employer but should include only chemicals used or stored in North Carolina.

Employers must maintain the most current Safety Data Sheets (SDS) received from manufacturers or distributors for each hazardous chemical purchased.



Reporting Emergency Contact Information Required

If your company normally stores at a facility any hazardous chemical in an amount of at least 55 gallons or 500 pounds, whichever is greater, you must provide the Fire Chief of the Fire Department having jurisdiction over the facility, in writing, the name(s) and telephone number(s) of knowledgeable representative(s) of your company who can be contacted for further information or in case of an emergency. You must provide them with a copy of the Hazardous Substance List. You must notify the Fire Chief in writing of any updates that occur to a previously submitted Hazardous Substance List as soon as possible. In Guilford County, this notification may be accomplished through filing in EPlan.

You must allow the Fire Chief or his/her representative, upon request, to perform on-site inspections of the chemicals located at your facility that are on the Hazardous Substance List. You must also provide to the Fire Chief, upon his request, a copy of the SDS of any chemical on the Hazardous Substances List. The Fire Chief may also make a written request to you to prepare an emergency response plan for your facility that includes the following:

1. Facility evacuation procedures;
2. A list of emergency equipment available at your facility; and
3. Copies of other emergency response plans, including but not limited to the hazardous waste contingency plan required by some facilities under N.C.G.S. Chapter 130A Article 9, The Solid Waste Management Article of the Public Health Law of North Carolina.

You must also provide any person in North Carolina that makes a written request a copy of a list of chemicals used or stored at the facility. The person making the request must include their name and address and a statement about their purpose in making the request. At a minimum, the list of chemicals must include the Hazardous Substance List, the class of each chemical, and an SDS for each chemical for which an SDS is available and requested. You may charge a fee not to exceed the cost of reproducing the materials, and you must provide the materials requested within 10 working days of the date you receive the written request for information.

There are provisions for trade secrets but these provisions are not included in this document.

Exemptions to the North Carolina Right to Know Act

The following are exempt from reporting under the North Carolina Right to Know requirements:

- Hazardous substances being transported in interstate commerce into or through this State;
- Products intended for personal consumption by employees in the facilities;
- Retail food sales establishments and all other retail trade establishments in Standard Industrial Classification Codes 53 through 59, exclusive of processing and repair areas;



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- Any food, food additive, color additive, drug or cosmetic covered by the Federal Food, Drug and Cosmetic Act;
- A laboratory under the direct supervision or guidance of a technically qualified individual provided that:
 - a. Labels on containers of incoming chemicals shall not be removed or defaced;
 - b. SDSs received by the laboratory shall be maintained and made accessible to employees and students; and
 - c. The laboratory is not used primarily to produce hazardous chemicals in bulk for commercial purposes;
- Any farming operation which employs 10 or fewer full-time employees;
- Any distilled spirits, tobacco, and untreated wood products; and
- Medicines used directly in patient care in health care facilities and health care facility laboratories.

How to Report Under North Carolina Right to Know Act

Guilford County has adopted the E-Plan system to share critical chemical planning information to the Fire Chiefs, Local Emergency Planning Committee and the State Emergency Response Commission. By utilizing E-Plan for reporting under the North Carolina Right to Know Act (NCRTK), you meet the criteria for the reporting requirement to the Fire Chief under the Act.

1. When you register for an E-Plan account at www.erplan.net, follow the instructions on the website and select “non-Tier II facility” if you are required to report under NCRTK but are NOT required to submit a Tier II Report. If you are required to submit a Tier II Report and report under NCRTK, one submission following the instructions for Tier II reporting will fulfill the requirements for NCRTK; a second entry is not necessary. Chemicals that are reported via EPlan that are below the 311 & 312 reportable quantities are not subject to the Guilford County Hazardous Materials Planning Fee.



FREQUENTLY ASKED QUESTIONS

Questions in this Appendix are arranged by topic:

- **General Questions**
- **Agricultural Chemical Questions**
- **Compressed Gas and Fuel Questions**
- **Other Chemical and Filing Questions**

General Questions

- **I have recently been put in charge of regulatory compliance for my facility and have just become aware of SARA Title III. Our files do not contain a record of past reporting.**

What should I do?

Contact your Local Emergency Planning Committee or call the State Emergency Response Commission EPCRA Coordinator at 919-825-2277 to determine which, if any, forms have been filed in the past. If your facility is not in compliance, consider making use of the EPA Audit Policy and submit any missing reports immediately. For the NCRTK Act, begin creation of your Hazardous Substances List if you do not fall under the SARA provisions and are not required to submit a Tier II Report. Then make contact with the Fire Chief with jurisdiction over your facility and learn what information he/she would like to have.

EPA Audit Policy: www.epa.gov/compliance/epas-audit-policy

- **I own a business that has a bulk storage site and a retail site. The bulk storage site is across the street from the retail site. Must I report them as two separate facilities?**

A facility is defined as all the buildings, equipment, structures, and other stationary objects at the same site, or at contiguous or adjacent sites, owned or operated by the same person. Your sites are separated by only a public right-of-way (a street) and are therefore considered contiguous. You do not have to submit two separate reports.

A facility is defined as “one or more establishments, factories or buildings located at one contiguous site in North Carolina” for the purposes of the NCRTK Act. There is no provision for a public right of way.

- **I have a business that operates out of two different buildings in the same town. The buildings are part of the same business but are several blocks apart. Do I have to report storage at each building separately, or can I submit one report for my business storage?**

Since the different sites are not on contiguous property and are not on adjacent sites, they must be reported separately. You will need to have a separate record in E-Plan for each site.

- **I understand that SARA Title III reporting is required under federal law. Does the federal government perform compliance inspections in North Carolina?**



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The Environmental Protection Agency (EPA) comes to North Carolina to perform SARA Title III compliance inspections. The EPA inspects large and small facilities. For an individual facility, the odds of being inspected may not be high. However, if you are inspected and have not made a good faith effort to comply with the federal regulations, you risk being subjected to substantial federal penalties for noncompliance.

• I just had a spill at my facility. What should I do?

Take action to protect life safety and attempt to stop the spill as quickly as possible. If there are injuries, an off-site release of the chemical, fires or other hazards, you must report the spill/release immediately to 9-1-1. Refer to “Section 304” of this document to determine if your spill/release is reportable. When in doubt, it is recommended you report the spill. If your spill/release is reportable, IMMEDIATELY contact all appropriate authorities. Please note state and federal laws stipulate a reportable spill/release must be reported “immediately.” This requirement must be taken seriously as some chemicals can rapidly impact human health and the environment. A swift public response will only occur if your notification is immediate. Be aware that facilities have been assessed federal penalties for delays in their reporting of an incident.

If the spill is small and does not encompass the aforementioned emergency situations, or falls below reportable quantities, stop the spill and begin cleanup. Keep in mind that you may call 9-1-1 at any time for assistance.

NOTE- All clean up expenses are the responsibility of the responsible party and not local government.

Agricultural Chemical Questions

• I am a farmer. Do I have to report my chemical storage?

Chemicals used in routine agricultural operations by the end user are exempted from reporting under Sections 311 and 312 (Tier II). Keep in mind if you are a farmer but you also operate a spray service or a machine shop as a side business, that chemical storage associated with your non-farm business is not exempt from reporting. There is no exemption for farmers when it comes to reporting their storage of Extremely Hazardous Substances (EHS). If you store a chemical such as Thimet, which has an ingredient (phorate) that is an Extremely Hazardous Substance (EHS), you may have to file a 302/303 report.

However, you may have to report emergency contact information to the Fire Chief under the North Carolina Right to Know Act if any hazardous chemical in an amount in excess of 55 gallons or 500 pounds, whichever is greater, is normally stored at the farming operation. See the “Reporting Emergency Contact Information” section under the Reporting Requirements Under North Carolina Right to Know Act heading.

• My facility is a grain elevator. I heard a rumor that grain dust is reportable. Is this true?



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Grain dust is reportable under Sections 311 and 312. It is considered hazardous due to the potential for causing respiratory problems in workers and due to the explosive hazard posed by airborne grain dust. The reporting threshold for grain dust is 10,000 pounds. The current recommendation for determining if you meet the 10,000 pound threshold is to take one-tenth of one percent of your grain storage by weight. Different types of dust, such as corn or wheat, should be reported separately.

Compressed Gas and Fuel Questions

• I own a retail gas station. I do not have any storage other than the gasoline, ethanol, and diesel fuel. What forms must I submit?

If you have a spill/release, you must report your spill as discussed under “Section 304” of this compliance document. You must submit a Section 311 report and an annual Tier II report if your fuel is stored in Aboveground Storage Tanks and your storage amount exceeds 10,000 pounds per product. You must submit a Section 311 report and an annual Tier II report if your fuel is stored in Underground Storage Tanks and your storage amount exceeds 75,000 gallons for gasoline (same threshold for 10% or less concentration of ethanol) and 100,000 gallons for diesel fuel.

NOTE: If you have a retail station with Underground Storage Tanks that are in full compliance with the Federal Underground Storage Tanks regulations, you do NOT have to submit a Section 311 report or an annual Tier II report, as long as your storage amount is less than the 75,000 gallons for gasoline (same threshold for 10% or less concentration of ethanol) and 100,000 gallons for diesel fuel. If you do not meet ALL these conditions, you must submit the Section 311 report and the annual Tier II report.

Other Chemical and Filing Questions

• Does a facility that sells car batteries need to report for the sulfuric acid in the batteries?

Sulfuric acid is an Extremely Hazardous Substance (EHS) with a threshold planning quantity (TPQ) of 1,000 pounds. If the total amount of acid at the site equals or exceeds that amount, the facility must file a Section 302/303 form. Sulfuric acid contained in automobile batteries which arrive sealed, and which are sold without being opened or serviced, is exempt from inventory reporting under Sections 311 and 312 (Tier II) because the batteries are packaged for distribution and use by the general public. However, if you service batteries at your facility or store battery acid, you have it in a form that is not packaged for sale to the consumer. Therefore, you would be subject to the reporting requirements of Sections 311 and 312 (Tier II). When filing 311 and 312 (Tier II) reports, the reporting threshold for an Extremely Hazardous Substance (EHS) such as sulfuric acid is the lesser of the Threshold Planning Quantity (TPQ) or 500 pounds. Remember the batteries themselves are a mixture of not only sulfuric acid but also other hazardous chemicals such as lead and lead compounds for which the 10,000 lbs threshold would apply. The weight of the other hazardous materials in the batteries may be calculated separately.



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• During the past year I purchased a facility. Who is required to complete the Tier II report and the Section 313 report for this year?

Each person who owned/operated the facility during the year is responsible for reporting, although only one report is required. Responsibility for the report may be negotiated between the buyer and the seller as part of the purchase/sale agreement. If no report is submitted, both parties subject themselves to penalties or fines.

• My facility is a bulk site. My inventory does not change from year to year. Do I have to submit the annual Tier II reports?

The reporting under Sections 302/303 and 311 does not require submittal of annual reports. However, under Section 312 of the federal law, you are required to submit a Tier II report on an annual basis, by March 1 of each year.

Keep in mind the information you provide is used to help the Guilford County Local Emergency Planning Committee plan for emergency situations and to help responders in your community assess the risks posed if an emergency arises at your facility. The goal is to keep as accurate a record as is possible. When you operate a bulk facility in your community, you might assume everyone knows what you have on-site. Past incidents in this state have shown this is not an accurate assumption. In the case of a bulk facility, it is possible you store some of the most hazardous materials in your community and it is of benefit to you to make sure responders are properly notified of your storage.

• Last year I purchased a bulk site. I operated the site for a month before closing and removing all chemicals. Do I have to submit a Tier II report?

Tier II reports must be filed on an annual basis. If you operated in 2014, you have to submit the Tier II report for that year, even if you only operated for a month. For example, the Tier II report for 2015 was due by March 1, 2016. When you make a submittal for a facility that operated during the past year, but has since closed, you complete the Tier II form including a note that your facility closed with the month and year of closure.

• I own a bulk site. I store more than 10,000 pounds of each: propane, gasoline, and diesel fuel, in aboveground storage tanks. Which reports must I file?

If you have a spill/release, you must report as discussed under “Section 304” of this compliance document. You must submit a 311 report for each chemical and you must submit a Tier II (Section 312) report on an annual basis for storage of each chemical.

• The only things I store are natural products and I don’t consider them to be “chemicals.” Do I have to report?

If you have a spill/release, you must report as discussed under “Section 304” of this compliance document. If you are required under the Occupational Health and Safety Administration (OSHA)



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Hazard Communication Standard (29 CFR 1910.1200) to provide an SDS for your product, even if it is a natural product, your product is reportable under Sections 311 and 312. It is your responsibility to determine if the OSHA Hazard Communication Standard applies to your product. If you mix your product at any concentration, with a product that is reportable under Sections 311 and 312 (diesel fuel for example), your mixed product is reportable. Don't forget to consider whether or not you have to report chemicals you store. Examples of other chemicals include caustic solutions used in cleaning, refrigerants, solvents, and fuels. These other products may be Section 302, 303, 311, 312, and 313 reportable.

If your products fall under the definition of hazardous chemical that has a physical or health hazard as defined by the Occupational Safety and Health of North Carolina Standard or a hazardous substance as defined in standards adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7) and the quantities of the products are 55 gallons or 500 pounds or greater, then you must report under NCRTK. This is required even if the substances are completely natural in origin.

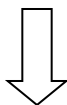


EMERGENCY TELEPHONE NUMBERS

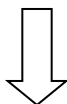
To Report Chemical Releases and/or Emergencies:

(Call from a safe location)

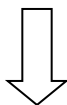
First- dial 9-1-1 to reach Fire, EMS, Law Enforcement, and Hazardous Materials teams



Second- contact the National Response Center at 1-800-424-8802 (if required or thought to be required)



Third- contact North Carolina Emergency Management at 1-800-858-0368



Fourth- contact the Guilford County LEPC through Guilford County Emergency Management at 336-641-2278

(note that this number is not staffed 24/7 but has after-hours instructions on how to contact the Emergency Management On-Call Coordinator)

(UPDATED 08/22/19)



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PLANNING ASSISTANCE TELEPHONE NUMBERS AND IMPORTANT WEBSITES (NON-EMERGENCY CONTACT INFORMATION)

For Planning Assistance:

Guilford County Tier II support: 336-641-2278
North Carolina Emergency Management EPCRA coordinator: 919-436-2746.
EPA EPCRA hotline: 1-800-424-8802

Important websites:

E-Plan Tier II and NC Right to Know submission: www.erplan.net

Guilford County LEPC: <https://www.guilfordcountync.gov/our-county/emergency-services/lepc>

North Carolina State Emergency Response Commission: <https://www.ncdps.gov/about-dps/boards-commissions/state-emergency-response-commission>

EPA SARA website: www.epa.gov/superfund/superfund-amendments-and-reauthorization-act-sara

(UPDATED 8/22/2019)