

Amendments to Emergency Planning and Notification; Emergency Release Notification and Hazardous Chemical Reporting (Tier II)

On October 17th, 2008, EPA finalized several changes to the Emergency Planning and Community Right-to-Know Act (EPCRA) regulations (40 CFR Parts 355 and 370). These changes were proposed on June 8, 1998 (63 FR 31268). Facilities subject to these regulations, State Emergency Response Commissions (SERCs), Local Emergency Planning Committees (LEPCs) and fire departments should become familiar with the new regulation.

All sections of 40 CFR Parts 355 and 370 will be in plain language, using a question and answer format.

There are only minor changes to the emergency planning and emergency release notification sections. For hazardous chemical reporting regulations, there are changes regarding the Tier I and Tier II forms, as well as changes in how to report hazardous chemicals in a mixture.

Tier I and Tier II Forms

- ❖ The Tier I and Tier II forms and their instructions have been removed from the code of federal regulations (CFR). They may now be found on EPA's Web site: www.epa.gov/emergencies.
- ❖ **The revised regulation includes a description of the requirements for Tier I and Tier II. Facilities are now required to report their North American Industry Classification System (NAICS) code on the Tier I or Tier II form.**
- ❖ Also, the chemical or common name of the chemical as provided on the Material Safety Data Sheet must be provided on the Tier II form.

EPA encourages facilities to contact their State to determine whether any additional requirements or formats are required by the State. See NC web site--

<http://www.nccrimecontrol.org/Index2.cfm?a=000003,000010,000064,000390,000391>

2008 Tier II Guidance

- **North Carolina will use Electronic Submission**
- File State Tier II reports using E-Plan, the Emergency Response Information System, at <https://erplan.net/eplan/login.htm>.
- There are **no fees** for **State** submission.
- Check with your County LEPC and responding fire department for their reporting requirements. **Alamance, Mecklenburg, Wake and Wilson Counties** require that you use their system for submission. Please check with them if you have facilities in those counties.

Anyone needing assistance or forms should first contact his/her local county emergency planning committee. If they can't help you, go to <http://www.ncpcm.org/environmental.htm> scroll to bottom and you can download forms and instructions. For more information contact Tim Laughlin at 919-782-4411 or email tloughlin@ncpcm.org

WHOLESALE/RETAIL PETROLEUM SIC CODES TO NAICS CODES

For more detail information go to:

<http://www.census.gov/epcd/www/naicstab.htm>

North American Industry Classification System (NAICS)

The North American Industry Classification System (NAICS) has replaced the U.S. Standard Industrial Classification (SIC) system.

Wholesale Trade, Nondurable Goods

Industries in the Wholesale Trade, Nondurable Goods subsector sell or arrange the purchase or sale of nondurable goods to other businesses. Nondurable goods are items generally with a normal life expectancy of less than three years. Nondurable goods wholesale trade establishments are engaged in wholesaling products, such as paper and paper products, chemicals and chemical products, drugs, textiles and textile products, apparel, footwear, groceries, farm products, petroleum and petroleum products, alcoholic beverages, books, magazines, newspapers, flowers and nursery stock, and tobacco products.

The detailed industries within the subsector are organized in the classification structure based on the products sold. Within an industry, the types of establishments may vary, including wholesale merchants and/or agents and brokers.

4227 Petroleum and Petroleum Products Wholesalers

42271 Petroleum Bulk Stations and Terminals

422710 Petroleum Bulk Stations and Terminals

This industry comprises establishments with bulk liquid storage facilities primarily engaged in wholesaling crude petroleum and petroleum products, including liquefied petroleum gas.

| 5171 | Petroleum Bulk Stations and Terminals | | |
|--------|--|--|---|
| | Heating Oil Sold Via Retail Method | 454311 | Heating Oil Dealers (pt) |
| | LP Gas Sold Via Retail Method | 454312 | Liquefied Petroleum Gas (Bottled Gas) Dealers (pt) |
| | Sold Via Wholesale Method | 42271 | Petroleum Bulk Stations and Terminals |
| 5172 | Petroleum and Petroleum Products Wholesalers, Except Bulk Stations and Terminals | 42272 | Petroleum and Petroleum Products Wholesalers (except Bulk Stations and Terminals) |
| NAICS | SIC | Corresponding Index Entries | |
| 422710 | 5171 | Bulk gasoline stations | |
| 422710 | 5171 | Bulk stations, petroleum | |
| 422710 | 5171 | Crude oil terminals | |
| 422710 | 5171 | Fuel oil bulk stations and terminals | |
| 422710 | 5171 | Gasoline bulk stations and terminals | |
| 422710 | 5171 | Liquefied petroleum gas (LPG) bulk stations and terminals | |
| 422710 | 5171 | Lubricating oils and greases bulk stations and terminals | |
| 422710 | 5171 | Oil, petroleum, bulk stations and terminals | |
| 422710 | 5171 | Petroleum and petroleum products bulk stations and terminals | |
| 422710 | 5171 | Propane bulk stations and terminals | |
| 422710 | 5171 | Terminals, petroleum | |

42272 Petroleum and Petroleum Products Wholesalers (except Bulk Stations and Terminals)

422720 Petroleum and Petroleum Products Wholesalers (except Bulk Stations and Terminals)

This industry comprises establishments primarily engaged in wholesaling petroleum and petroleum products (except from bulk liquid storage facilities).

| NAICS | SIC | Corresponding Index Entries |
|--------|------|--|
| 422720 | 5172 | Crude oil wholesaling (except bulk stations, terminals) |
| 422720 | 5172 | Fuel oil truck jobbers |
| 422720 | 5172 | Fuel oil wholesaling (except bulk stations, terminals) |
| 422720 | 5172 | Fueling aircraft (except on contract basis) |
| 422720 | 5172 | Gasoline wholesaling (except bulk stations, terminals) |
| 422720 | 5172 | Liquefied petroleum gas (LPG) wholesaling (except bulk stations, terminals) |
| 422720 | 5172 | Lubricating oils and greases wholesaling (except bulk stations, terminals) |
| 422720 | 5172 | Oil, petroleum, wholesaling (except bulk stations, terminals) |
| 422720 | 5172 | Petroleum and petroleum products wholesaling (except bulk stations, terminals) |
| 422720 | 5172 | Petroleum brokers |

454 Nonstore Retailers

Industries in the Nonstore Retailers subsector retail merchandise using methods, such as the broadcasting of infomercials, the broadcasting and publishing of direct-response advertising, the publishing of paper and electronic catalogues, door-to-door solicitation, in-home demonstration, selling from portable stalls and distribution through vending machines. Establishments in this subsector include mail-order houses, vending machine operators, home delivery sales, door-to-door sales, party plan sales, electronic shopping, and sales through portable stalls (e.g., street vendors, except food). Establishments engaged in the direct sale (i.e., nonstore) of products, such as home heating oil dealers, newspaper delivery are included in this subsector.

45431 Fuel Dealers

This industry comprises establishments primarily engaged in retailing heating oil, liquefied petroleum (LP) gas, and other fuels via direct selling.

454311 Heating Oil Dealers

This U.S. industry comprises establishments primarily engaged in retailing heating oil via direct selling.

| NAICS | SIC | Corresponding Index Entries |
|--------|------|--|
| 454311 | 5983 | Fuel oil (i.e., heating) dealers, direct selling |
| 454311 | 5983 | Heating oil dealers, direct selling |

454312 Liquefied Petroleum Gas (Bottled Gas) Dealers

This U.S. industry comprises establishments primarily engaged in retailing liquefied petroleum (LP) gas via direct selling.

| NAICS | SIC | Corresponding Index Entries |
|--------|------|---|
| 454312 | 5984 | Bottled gas dealers, direct selling |
| 454312 | 5984 | Liquefied petroleum gas (LPG) dealers, direct selling |

447 Gasoline Stations

Industries in the Gasoline Stations subsector group establishments retailing automotive fuels (e.g., gasoline, diesel fuel, and gasohol) and automotive oils and retailing these products in combination with convenience store items. These establishments have specialized equipment for the storage and dispensing of automotive fuels.

4471 Gasoline Stations

44711 Gasoline Stations with Convenience Stores

447110 Gasoline Stations with Convenience Stores

This industry comprises establishments engaged in retailing automotive fuels (e.g., diesel fuel, gasohol, gasoline) in combination with convenience store or food mart items. These establishments can either be in a convenience store (i.e., food mart) setting or a gasoline station setting. These establishments may also provide automotive repair services.

| NAICS | SIC | Corresponding Index Entries |
|--------|------|---|
| 447110 | 5411 | Convenience food with gasoline stations |
| 447110 | 5541 | Gasoline stations with convenience stores |
| 447110 | 5541 | Gasoline with convenience stores |

44719 Other Gasoline Stations

447190 Other Gasoline Stations

This industry comprises establishments known as gasoline stations (except those with convenience stores) primarily engaged in one of the following: (1) retailing automotive fuels (e.g., diesel fuel, gasohol, gasoline) or (2) retailing these fuels in combination with activities, such as repair services, selling automotive oils, replacement parts, and accessories, and/or with restaurants.

| NAICS | SIC | Corresponding Index Entries |
|--------|------|--|
| 447190 | 5541 | Gasoline stations without convenience stores |
| 447190 | 5541 | Marine service stations |
| 447190 | 5541 | Service stations, gasoline |
| 447190 | 5541 | Truck stops |

| 1987 SIC | 1987 U.S. SIC Description | 1997 NAICS | 1997 NAICS U.S. Description |
|----------|---|-----------------------|--|
| 5411 | Grocery Stores | | |
| | Convenience Stores with Gas | 44711 | Gasoline Stations with Convenience Stores (pt) |
| | . Supermarkets and Grocery Stores with Little General Merchandise | 44511 | Supermarkets and Other Grocery (except Convenience) Stores |
| | . Supermarkets and Grocery Stores with | 45291 | Warehouse Clubs and Superstores (pt) |

| | | | |
|-----------------|--|-----------------------|---|
| | Substantial General Merchandise | | |
| | Convenience Stores without Gas | 44512 | Convenience Stores |
| 1987 SIC | 1987 U.S. SIC Description | 1997 NAICS | 1997 NAICS U.S. Description |
| 55 | Automotive dealers and gasoline service stations | | |
| 5511 | Motor Vehicle Dealers (New and Used) | 44111 | New Car Dealers |
| 5521 | Motor Vehicle Dealers (Used Only) | 44112 | Used Car Dealers |
| 5531 | Auto and Home Supply Stores | | |
| | Tire Dealers | 44132 | Tire Dealers (pt) |
| | Auto Supply Stores | 44131 | Automotive Parts and Accessories Stores (pt) |
| | Other Auto and Home Supply Stores | 45299 | All Other General Merchandise (pt) |
| 5541 | Gasoline Service Stations | | |
| | With Convenience Store | 44711 | Gasoline Stations with Convenience Store (pt) |
| | Except with Convenience Stores | 44719 | Other Gasoline Stations |

493 Warehousing and Storage

Industries in the Warehousing and Storage subsector are primarily engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods, and other warehouse products. These establishments provide facilities to store goods. They do not sell the goods they handle. These establishments take responsibility for storing the goods and keeping them secure. They may also provide a range of services, often referred to as logistics services, related to the distribution of goods. Logistics services can include labeling, breaking bulk, inventory control and management, light assembly, order entry and fulfillment, packaging, pick and pack, price marking and ticketing, and transportation arrangement. However, establishments in this industry group always provide warehousing or storage services in addition to any logistic services. Furthermore, the warehousing or storage of goods must be more than incidental to the performance of services, such as price marking.

Bonded warehousing and storage services and warehouses located in free trade zones are included in the industries of this subsector.

4931 Warehousing and Storage

49311 General Warehousing and Storage

493110 General Warehousing and Storage

This industry comprises establishments primarily engaged in operating merchandise warehousing and storage facilities. These establishments generally handle goods in containers, such as boxes, barrels, and/or drums, using equipment, such as forklifts, pallets, and racks. They are not specialized in handling bulk products of any particular type, size, or quantity of goods or products.

| NAICS | SIC | Corresponding Index Entries |
|--------|------|---|
| 493110 | 4225 | Bonded warehousing, general merchandise |
| 493110 | 4225 | General warehousing and storage |
| 493110 | AUX | Private warehousing and storage, general merchandise |
| 493110 | 4225 | Public warehousing and storage (except self storage), general merchandise |
| 493110 | 4226 | Warehousing (including foreign trade zones), general merchandise |
| 493110 | 4225 | Warehousing and storage, general merchandise |
| 493130 | 4221 | Public warehousing and storage, farm products (except refrigerated) |
| 493130 | 4221 | Warehousing, farm products (except refrigerated) |

49319 Other Warehousing and Storage

493190 Other Warehousing and Storage

This industry comprises establishments primarily engaged in operating warehousing and storage facilities (except general merchandise, refrigerated, and farm product warehousing and storage).

| NAICS | SIC | Corresponding Index Entries |
|---------------|-------------|---|
| 493190 | 4226 | Automobile dead storage |
| 493190 | 4226 | Bonded warehousing (except farm products, general merchandise, refrigerated) |
| 493190 | 4226 | Bulk petroleum storage |
| 493190 | 4226 | Lumber storage terminals |
| 493190 | 4226 | Private warehousing and storage (except farm products, general merchandise, refrigerated) |
| 493190 | 4226 | Public warehousing and storage (except farm products, general merchandise, refrigerated, self storage). |
| 493190 | 4226 | Warehousing (except farm products, general merchandise, refrigerated) |
| 493190 | 4226 | Whiskey warehousing |

Primary SIC/NAICS Code Determination: Bulk Plant facilities with Standard Industrial Classification (SIC) code 5171. According to the *SIC Code Manual* (1987 Ed.) “...**establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, construction contractors, or professional business users; or other wholesalers; or acting as agents or brokers in buying or selling merchandise to such persons or companies**” are properly classified in Division F, Wholesale Trade, SIC code 5171, and are therefore covered under EPCRA Section 313, beginning with the reporting year 1998.

Assuming your facility has several establishments with different SIC codes that are owned or operated by the same entity, you will need to determine if your facility has a primary SIC code that is subject to different regulations.

- The **total value** (taxes excluded) of the products shipped or services provided at establishments with covered SIC codes is greater than 50% of the value of the entire facility’s products and services; OR
- Your facility may include multiple establishments that have different SIC Codes. A multi-establishment facility is a facility that consists of two or more distinct and separate economic units. If your facility is a multi-establishment facility, calculate the value of the products produced, shipped, or services provided from each establishment within the facility and then use the largest revenue generator to see if your facility meets the SIC Code criterion, or as some in the industry have said, “the value of the sales from all other (non-regulated SIC Codes) activities combined” must be greater than 50% to be a non SIC 5171 facility.

Example-Primary **SIC/NAICS Code:** **A facility is made up of four establishments on the same property. The first establishment, a petroleum bulk storage operation, which has 100,000 gallons of storage capacity, is in SIC code 5171 and is regulated under EPCRA Section 313. The second establishment, a petroleum products wholesaler, which means establishments primarily engaged in the wholesale distribution of petroleum products without bulk liquid storage facilities, is SIC code 5172, and is not within an SIC code covered by EPCRA Section 313. The third establishment is made up of a bulk heating oil retailer, SIC code 5983, and stores 50,000 gallons of heating oil, and is not within an SIC code covered by EPCRA Section 313. The fourth establishment, a convenience store, SIC code 5541, and is not within an SIC code covered by EPCRA Section 313. The facility then determines that the value added by the petroleum products wholesaler (5172) is worth \$1,500,000/year, whereas the value of the petroleum bulk storage operation (5171) is \$1,000,000/year, the value of the heating oil retailer (5983) is \$250,000/year, and the value of the convenience store (5541) is \$1,500,000/year. The value of the covered establishment, SIC 5171, is less than 50% of the facility’s value; therefore, the primary SIC code determination is such that the entire facility is not subject to EPCRA Section 313.** Bulk Plant facilities with SIC code 5171 are defined as facilities that must comply with the reporting requirements of EPCRA Section 313 (TRI). According to the *SIC Code Manual* (1987 ed.) “...**establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, construction contractors, or professional business users; or other wholesalers; or acting as agents or brokers in buying or selling merchandise to such persons or companies**” are properly classified in Division F, Wholesale Trade, SIC code 5171, and are therefore covered under EPCRA Section 313, beginning with the reporting year 1998.

Primary SIC/NAICS Code Determination. Assuming your facility has several establishments with

different SIC codes that are owned or operated by the same entity, you will need to determine if your facility has a primary SIC code that is subject to EPCRA Section 313. Your facility is subject to EPCRA Section 313 reporting requirements if:

- All the establishments have SIC codes covered by EPCRA Section 313; OR
- The total value of the products shipped or services provided at establishments with covered SIC codes is greater than 50% of the value of the entire facility's products and services; OR
- Any one of the establishments with a covered SIC code ships and/or produces products or provides services whose value exceeds the value of services provided or products produced and/or shipped by all of the other establishments within the facility on an individual basis.

Example - SIC/NAICS Code Determination.

Many bulk petroleum stations operating in some states sell their petroleum products directly to end users. These plants typically sell to farmers and construction companies, as well as state and local governments. Generally, the products are transferred to the customer in quantities of 500 gallons or less. For these facilities, distribution to retail facilities may make up approximately 5 percent of their overall business. These facilities are considered bulk wholesale distributors of petroleum products, and are not classified in retail trade and therefore are covered under EPCRA Section 313, TRI reporting. This type of facility is an SIC code 5171.

Example - Primary SIC/NAICS Code.

A facility is made up of two establishments. The first establishment, a petroleum bulk storage operation, which has 100,000 gallons of storage capacity, is in SIC code 5171 and is regulated under EPCRA Section 313. The second establishment, a petroleum products wholesaler, in SIC code 5172, is not within an SIC code covered by EPCRA Section 313. The facility then determines that the value added by the petroleum products wholesaler is worth \$500,000/year whereas the value of the petroleum bulk storage operation is \$1,500,000/year. The value of the covered establishment is more than 50% of the facility's value; therefore, the primary SIC code determination is such that the entire facility is subject to EPCRA Section 313 reporting.

POSSIBLE ERROR - Multi-Establishment Facilities

In the above example, the "multi-establishment" facility should not overlook the EPCRA Section 313 chemicals in the petroleum products at the petroleum products wholesaler operations. Once your facility meets the SIC code and employee threshold criteria, facility personnel are required to consider all non-exempt activities in all establishments in its threshold and release and other waste management calculations. To determine the value of production or service attributable to a particular establishment, you can subtract the product or service value obtained from other establishments from the total product or service value of the facility. This procedure eliminates the potential for "double counting" production or service in situations where establishments are engaged in sequential production activities at a single facility.

Auxiliary Facilities: Some companies may own and/or operate a non-contiguous and non-adjacent facility that primarily supports a covered EPCRA Section 313 facility. These auxiliary facilities assume the SIC code of a covered facility that it directly supports. For example, an off-site warehouse that directly supports a covered petroleum bulk terminal (SIC code 5171) must assume the SIC code 5171 itself. For the purposes of EPCRA Section 313, auxiliary facilities must be engaged in performing support services for another facility or establishment within a covered facility. Therefore, if an auxiliary facility's primary function is to support/service a covered petroleum bulk storage facility, the auxiliary facility may assume the SIC code of the main facility and may then be covered by the EPCRA Section 313 reporting requirements for purposes of the facility's SIC code.

Example - Auxiliary Facilities

A retail gas station sells only products supplied by one covered bulk petroleum station. Is the retail gas station considered an auxiliary facility and therefore does it take on the covered SIC code of the bulk petroleum station? No. While the retail gas station sells only products supplied by the covered bulk petroleum station it is not an auxiliary facility because it does not support the operation of the bulk petroleum station (i.e., the retail sale of gasoline and other petroleum products is a distinctly separate activity that benefits the gas station.)

How to Change Your SIC/NAICS Code:

Bulk Plant facilities with SIC code 5171 are defined as establishments primarily (majority of monies made) engaged in selling merchandise to retailers of petroleum and petroleum products including LPG. If your facility does not meet the over 50% petroleum criteria, then you are not an SIC 5171 and could be an SIC 5983; bulk heating oil retailer, SIC 5984; LPG bottled gas dealer, SIC 4225; general warehouse and storage (non-bulk lube oil), SIC 5172; petroleum wholesaler, where most of the product is purchased at a terminal and then delivered to a customers site and SIC 5541; gasoline service station or convenience store. It would be in your best interest to confirm if, indeed, your facility is SIC 5171. For example, an office located at a petroleum bulk plant facility, supports a marketer's on-site c-store operations (same facility)

and, therefore, earns more money than the bulk plant activity alone. Under this example, the primary SIC code for this facility would be SIC 5541 gasoline service station or c-store and would be exempt from the TRI reporting. Another example would be that the bulk petroleum plant generates over 50% of its monies from retail sale of bulk petroleum, such as the sale of heating oil, this would be a SIC 5983. Other SIC codes apply for different applications.

To change your SIC code, simply do an analysis of monies generated with your banker, accountant, or insurance agent and document this. Once you have decided which SIC code you should be, simply start changing documents as they are required. This is no notification or government paper work to fill out, this simply requires internal documentation

COMMON MSDS DATA ON COMMON PETROLEUM PRODUCTS.

The below table describes data one can find from a Material Safety Data Sheet (MSDS). MSDS's can be as long as 12 pages and contain much more data than given below. The below information is typical and taken from specific MSDS's. For specific information on name brand products one should review the name brand products MSDS's.

The table information is based on the following. **1)** Density is at 60 degrees F. **2)** Most petroleum products have flash points that have a degree range, for safety considerations please use the lowest flash point. **3)** NFPA-704 color code is rated on numbers with 0 being the least cause for concern and 4 being the most cause for health and safety concerns. (B) stands for blue and is health rating, (R) stands for red and is fire rating, (Y) stands for yellow is for reactivity rating. **4)** Gasoline's contains no oxygenates and is standard RVP. (TL)

| Chemical Type | Flash Point °F | Density lbs. /gal. | Shipping DOT ID # | CAS # | NFPA-704 color code | Hazard Class |
|----------------------------------|----------------|--------------------|-------------------|--|---------------------|---------------|
| Gasoline 89 octane | -44 | 6.26 | 1203 | 86290-81-5 | B-2, R-4, Y-0 | Flammable |
| Diesel # 2 | 120-180 | 7.19 | 1993 | 68476-30-2 | B-2, R-2, Y-0 | Combustible |
| K-1 Kerosene | 122-150 | 6.92 | 1223 | 8008-20-6 | B-1, R-2, Y-0 | Combustible |
| # 2 Fuel Oil | 120-180 | 7.15 | 1993 | 68476-30-2 | B-0, R-2, Y-0 | Combustible |
| Motor Oil 10W-30 | 401 | 7.33 | none | 64741-88-4 | B-0, R-1, Y-0 | Combustible |
| Antifreeze Ethylene-Glycol | 235 | 9.38 | none | 107-21-1 | B-3, R-1, Y-0 | non-flammable |
| Gasoline 87 octane | -44 | 6.23 | 1203 | 86290-81-5 | B-2, R-4, Y-0 | Flammable |
| Lube Oil 90 W | 360 | 7.53 | none | mixture | B-1, R-1, Y-0 | Combustible |
| Soy Oil (B-100) Fatty Acid Ester | 266 min. | 7.3 | none ID # 144920 | Methyl Soyate: 67784-80-9; most common | B-0, R-1, Y-0 | Combustible |
| Ethanol (200 proof) | 50-60 | 6.5 | 1170 | 64-17-5 | B-0, R-3, Y-0 | Flammable |
| Propane Liquid or Gas | -156 | 4.2 | 1978 | 74-98-6 | B-1, R-4, Y-0 | Flammable Gas |