



SARA Title III The Emergency Planning and Community Right-to-Know Act

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FACT SHEET OF MICHIGAN & FEDERAL REQUIREMENTS

SARA Title III was passed in response to concerns regarding the environmental and safety hazards posed by the storage and handling of toxic chemicals. These concerns were triggered by the 1984 disaster in Bhopal, India, in which thousands of people suffered death or serious injury due to a release of methyl isocyanate gas from a chemical plant. To reduce the likelihood of such a disaster in the United States, Congress imposed requirements on both states and regulated facilities.

SARA Title III establishes requirements for federal, state, and local governments, Indian tribes, and industry regarding emergency planning and “Community Right-to-Know” reporting on hazardous and toxic chemicals. The Community Right-to-Know provisions help increase the public’s knowledge and access to information on chemicals at individual facilities, their uses, and releases into the environment. States and communities, working with facilities, can use the information to improve chemical safety and protect public health and the environment.

SARA Title III is a federal act that is enforced in Michigan by the U.S. Environmental Protection Agency (EPA). The requirements are implemented in Michigan under an executive order from the Governor. Executive Order 2007-18 created the **Michigan Citizen-Community Emergency Response Coordinating Council** as an advisory body within the Michigan Department of State Police (MSP). This new council is responsible for developing and implementing citizen volunteer emergency response plans and hazard mitigation plans, and it acts as the state emergency response commission (SERC) as required by federal statute.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) was enacted by Congress in 1980 to clean up the nation’s hazardous waste sites and to provide for emergency response to releases of hazardous substances into the environment. CERCLA is also called Superfund, and in 1986, Superfund was reauthorized and expanded. It is known as the Superfund Amendments and Reauthorization Act (SARA). Title III of SARA (“SARA Title III”) is the Emergency Planning and Community Right-To-Know Act (EPCRA).

What Does SARA Title III Cover?

SARA Title III has four major provisions:

- Emergency planning (Sections 302 & 303)
- Emergency release notification (Section 304)
- Hazardous chemical inventory (Sections 311 & 312)
- Toxic chemical release inventory (Section 313)

Information gleaned from these four requirements will help states and communities develop a broad perspective of chemical hazards for the entire community as well as for individual facilities. Regulations implementing SARA Title III are codified in Title 40 of the Code of Federal Regulations, parts 350 to 372. The chemicals covered by each of the sections are different, as are the quantities that trigger reporting. Details of these reporting requirements are covered in the discussion below.

Emergency Planning (Sections 302 & 303)

Off-site emergency response plans contain information that community officials can use at the time of a chemical accident. These plans are developed under section 303 by Local Emergency Planning Committees (LEPCs) for the protection of the community. The plans address the off-site response to emergency releases of **extremely hazardous substances** from certain facilities in the LEPC planning district. The plans must:

- Identify facilities subject to section 302;
- Identify routes likely to be used for the transportation of extremely hazardous substances;
- Identify facilities contributing to the risk due to their proximity to facilities subject to section 302, such as natural gas facilities;
- Identify facilities subjected to additional risk due to their proximity to facilities subject to section 302, such as hospitals;
- Describe emergency response procedures, on and off site;
- Designate a community coordinator and facility coordinator(s) to implement the plan;
- Outline emergency notification procedures;
- Describe how to determine the occurrence of a release, and the area or population likely to be affected by such release;
- Describe local emergency equipment and facilities, and identify the persons responsible for such;
- Outline evacuation plans;
- Include training programs, including schedules for training local emergency response and medical personnel;
- Provide methods and schedules for exercising the emergency plan.

What are SERCs and LEPCs?

The Governor of each state designates a State Emergency Response Commission (SERC). The SERCs, in turn, designate local emergency planning districts and appointed a Local Emergency Planning Committee (LEPC) for each district. In Michigan, there are 88 LEPCs – one for each of the 83 counties as well as LEPCs for the cities of Ann Arbor, Detroit, Grand Rapids, Romulus, and Wayne.

The SERC supervises and coordinates the activities of the LEPC, establishes procedures for receiving and processing public requests for information collected under SARA Title III, and reviews local emergency response plans. **The Michigan SARA Title III Program in the Department of Environmental Quality (DEQ) receives all reports submitted to the SERC.** The Michigan Department of State Police, Emergency Management and Homeland Security Division (MSP-EMHSD) reviews the local emergency response plans and oversees the activities of the LEPCs.

The LEPC membership must include, at a minimum, local officials including police, fire, civil defense, public health, transportation, and environmental professionals, as well as representatives of facilities subject to the emergency planning requirements, community groups, and the media. The LEPCs must develop an emergency response plan, review it at least annually, and provide information about chemicals in the community to citizens.

Planning activities of LEPCs and facilities initially focused on, but were not limited to, the 355 extremely hazardous substances listed by EPA in 40 CFR 355, Appendix A. The list includes the threshold planning quantity (minimum limit) for each substance. Under section 302 of SARA Title III, any facility that has any of the listed extremely hazardous substances at or above its threshold planning quantity, must notify the SERC and LEPC. This one-time notification must be made within 60 days after the facility first receives a shipment or produces the substance on site that causes the facility to meet or exceed the threshold planning quantity for that substance.

Emergency Release Notification (Section 304)

Facilities must immediately notify the LEPC and SERC if there is a release into the environment of a hazardous substance that is equal to or exceeds the minimum reportable quantity set in the regulations. This requirement covers the 355 extremely hazardous substances as well as over 770 listed hazardous substances subject to the emergency release notification requirements under CERCLA Section 103(a) (40 CFR 302.4). Some chemicals are common to both lists. Emergency release notification requirements involving transportation incidents can be met by dialing 911.

A written follow-up notice must be submitted to the SERC and the LEPC as soon as practicable after the release. The follow-up notice must update information included in the initial notice and provide information on the actual response actions taken and advice regarding medical attention necessary for citizens exposed to the released chemical.

Section 304 is only one of 27 state and federal regulations that have release reporting requirements that apply in Michigan. Go to www.michigan.gov/deqrelease for additional release reporting requirements and a release reporting form that can be used to report releases under section 304.

The emergency release notification should include:

- The chemical name;
- An indication of whether the substance is extremely hazardous;
- An estimate of the quantity released into the environment;
- The time and duration of the release;
- Whether the release occurred into air, water, and/or land;
- Any known or anticipated acute or chronic health risks associated with the emergency and, where necessary, advice regarding medical attention for exposed individuals;
- Proper precautions, such as evacuation or sheltering in place;
- Name and telephone number of the contact person.

Hazardous Chemical Inventory (Sections 311 & 312)

Under the Occupational Safety and Health Administration (OSHA) regulations, employers must maintain a material safety data sheet (MSDS) for any hazardous chemicals stored or used in the work place. Over 500,000 products have MSDSs.

Section 311 of SARA Title III requires facilities that have MSDSs for chemicals held above certain quantities to submit either copies of their MSDSs or a list of hazardous chemicals to the SERC, LEPC, and local fire department within three months after they exceed the threshold. If the facility owner or operator chooses to submit a list of hazardous chemicals, the list must include the chemical or common name of each substance and identify the applicable hazard categories. These hazard categories are:

- Immediate (acute) health hazard;
- Delayed (chronic) health hazard;
- Fire hazard;
- Sudden release of pressure hazard;
- Reactive hazard.

Facilities covered by section 311 must, under section 312, submit annually an emergency and hazardous chemical inventory form to the LEPC, the SERC, and the local fire department. Facilities provide either a Tier One or Tier Two form. Tier One forms include aggregate information for each applicable hazard category. The Tier Two report contains basically the same information as the Tier One, but it must name the specific chemicals. Many states, including Michigan, require Tier Two information. Tier Two forms provide the following information for each substance:

- The chemical name or common name as indicated on the MSDS;
- An estimate of the maximum amount of the chemical present at any time during the preceding calendar year and the average daily amount;
- A brief description of the manner of storage of the chemical;
- The location of the chemical at the facility;
- An indication of whether the owner elects to withhold location information from disclosure to the public.

Because many SERCs have added requirements or incorporated the Federal contents in their own forms, Tier One or Tier Two forms should be obtained from the SERC. Section 312 information must be submitted on or before March 1 each year.

In 1999, EPA excluded gasoline held at most retail gas stations from section 311/312 reporting. EPA estimates that about 550,000 facilities, including approximately 6000 facilities in Michigan, are now covered by SARA Title III section 311/312 requirements.

The information submitted under sections 311 and 312 is available to the public from LEPCs and SERCs. The hazardous chemical inventory reports are not available to the public on the Internet.

Toxic Chemical Release Inventory (Section 313)

Section 313, commonly referred to as the Toxic Chemical Release Inventory or TRI, requires certain facilities to complete a report annually for specified chemicals. The report must be submitted to both EPA and the State by July 1, and covers releases and other waste management of toxic chemicals that occurred during the preceding calendar year. Facilities also must report information on source reduction, recycling, and treatment under the Pollution Prevention Act of 1990. One purpose of this reporting requirement is to inform the public and communities surrounding covered facilities about toxic chemicals at individual facilities, their uses, and releases into the environment. The following information is required on the form:

- The name, location and type of business;
- Whether the chemical is manufactured (including importation), processed or otherwise used and the general categories of use of the chemical;
- An estimate of the maximum amounts of the toxic chemical present at the facility at any time during the preceding year;
- Quantity of the chemical entering the air, land, and water during the preceding year;

- Off-site locations to which the facility transfers toxic chemicals in waste for recycling, energy recovery, treatment or disposal;
- Waste treatment or disposal methods and efficiency of methods for each waste stream.

The TRI reporting requirement applies to facilities that have 10 or more full-time employees (or the equivalent), that manufacture (including import), process, or otherwise use a listed toxic chemical above threshold quantities, and that are in one of the following sectors:

- Manufacturing
- Metal mining
- Coal mining
- Electrical utilities that combust coal and/or oil for the purpose of generating electricity for distribution into commerce
- Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste treatment and disposal facilities
- Chemicals and allied products wholesale distributors
- Petroleum bulk plants and terminals
- Solvent recovery services

Federal facilities that meet the activity thresholds also must report by executive order.

The EPA maintains the TRI information in a national database that is available to the public on the Internet. Michigan also maintains state-specific TRI data on the Internet.

What Else Does SARA Title III Require?

Trade Secrets. Section 322 addresses trade secrets as they apply to SARA Title III sections 303, 311, 312, and 313 reporting; a facility cannot claim trade secrets under section 304 of this statute. Only the chemical identity may be claimed as a trade secret, though a generic class for the chemical must be provided. The criteria a facility must meet to claim a chemical identity as a trade secret are in 40 CFR part 350. In practice, less than one percent of facilities have filed such claims.

Even if chemical identity information can be legally withheld from the public, SARA Title III section 323 allows the information to be disclosed to health professionals who need the information for diagnostic and treatment purposes or local health officials who need the information for prevention and treatment activities. In non-emergency cases, the health professional must sign a confidentiality agreement with the facility and provide a written statement of need. In medical emergencies, the health professional, if requested by the facility, provides these documents as soon as circumstances permit.

Any person may challenge trade secret claims by petitioning EPA. The Agency must review the claim and rule on its validity.

Penalties. SARA Title III section 325 allows civil and administrative penalties ranging from \$10,000 to \$75,000 per violation or per day per violation when facilities fail to comply with the reporting requirements. Criminal penalties up to \$50,000 or five years in prison apply to any person who knowingly and willfully fails to provide emergency release notification. Penalties of not more than \$20,000 and/or up to one year in prison apply to any person who knowingly and willfully discloses any information entitled to protection as a trade secret.

An owner or operator who violates any Tier Two reporting requirement shall be liable to the United States for a civil penalty of up to \$32,500 for each such violation. Each day a violation continues shall constitute a separate violation.

Citizens Suits. SARA Title III section 326 allows citizens to initiate civil actions against EPA, SERCs, and the owner or operator of a facility for failure to meet the SARA Title III requirements. A SERC, LEPC, and State or local government may institute actions against facility owner/operators for failure to comply with SARA Title III requirements. In addition, States may sue EPA for failure to provide trade secret information.

Related Laws

The Oil Pollution Act (OPA) of 1990 includes national planning and preparedness provisions for oil spills that are similar to SARA Title III provisions for extremely hazardous substances. Plans are developed at the local, State and Federal levels. The OPA plans offer an opportunity for LEPCs to coordinate their plans with area and facility oil spill plans covering the same geographical area.

The 1990 Clean Air Act Amendments require EPA and OSHA to issue regulations for chemical accident prevention. Facilities that have certain chemicals above specified threshold quantities are required to develop a risk management program to identify and evaluate hazards and manage those hazards safely. Facilities subject to EPA's risk management program rules must submit a risk management plan (RMP) summarizing its program to EPA. If the facility will respond to a release, they must coordinate the RMP with the LEPC off-site emergency response plan. If the facility will not respond to a release, then facilities that have toxic chemicals must assure that their facility is included in the LEPC off-site emergency response plan, and facilities that have flammable substances must assure coordinated response actions with the local fire department.

The Michigan Emergency Management Act (Act 390) provides for planning, mitigation, response, and recovery from natural and human-made disasters within the state. It requires the state to develop an emergency response plan, and counties and large municipalities to develop an emergency operations plan. LEPCs must coordinate their off-site emergency response plans with the county/city emergency operations plan.

Michigan OSHA (MIOSHA) regulations stipulate that the chief of each organized fire department shall provide the fire fighters with a plan for executing their responsibilities with respect to each site within the jurisdiction. The Fire Prevention Code (1941 PA 207) requires owners and operators of facilities to provide the fire department with the quantities and locations of chemicals specified by the fire chief.

Michigan's Natural Resources and Environmental Protection Act (1994 PA 451), Part 31, Water Resources Protection, requires that facilities subject to the Part 5 rules provide notification to the LEPC that they have completed a Pollution Incident Prevention Plan (PIPP) or an integrated contingency plan (ICP) containing the PIPP requirements. They must provide a copy of the PIPP or ICP to the LEPC upon request.

Summary of SARA Title III Reporting Requirements in Michigan

SARA TITLE III SECTION	REPORT REQUIREMENT	REPORT FORM	REPORT DUE	AGENCIES TO RECEIVE REPORT		
302	Emergency Planning Notification	Emergency Planning Notification online in Tier II Manager™ or hard copy.	Within 60 days after threshold reached	Michigan SARA Title III Program	Local Emergency Planning Committee (LEPC)	
304	Emergency Chemical Release – Initial Notification		Within 15 minutes after discovery	Pollution Emergency Alerting System (PEAS) at 800-292-4706 (in-state) or 517-373-0440 (outside of state); or Ag Hotline at 800-405-0101	All LEPCs potentially affected by the release	U.S. Coast Guard National Response Center (NRC) at 800-424-8802
304	Emergency Chemical Release – written Follow-up	Spill or Release Report	Within 7 days after the release	Michigan SARA Title III Program	All LEPCs affected by the release	
311	Material Safety Data Sheet Reporting	Online in Tier II Manager™	Within 3 months after threshold reached	Michigan SARA Title III Program	LEPC	Local fire department
312	Tier Two – Emergency & Hazardous Chemical Inventory	Tier Two online in Tier II Manager™	Annually, by March 1	Michigan SARA Title III Program	LEPC	Local fire department
313	Toxic Chemical Release Inventory Form R	Form R	Annually, by July 1	Michigan SARA Title III Program	TRI Data Processing Center	

There are **no fees** associated with reporting under SARA Title III in Michigan.

Where Can You Find SARA Title III Information?

In accordance with SARA Title III requirements, MSDSs, hazardous chemical inventory forms, follow-up emergency release notifications, and emergency response plans are available from the SERC and the LEPC.

EPA's Chemical Emergency Preparedness and Prevention Office (CEPPO) website has links to an abundance of chemical information including the List of Lists, a consolidated list of chemicals subject to SARA Title III sections 302, 304, and 313, CERCLA, the Clean Air Act section 112r, and RCRA; MSDSs; profiles of extremely hazardous substances; and TRI information. Access this information by going to the CEPPO website and clicking on Emergency Planning and Community Right-to-Know Act, and then Chemical Information.

Michigan Information:

Reporting and LEPC contact information

Michigan SARA Title III Program
Department of Environmental Quality
P.O. Box 30457
Lansing, MI 48909-7957
(517) 373-8481
E-mail: deq-ead-sara@michigan.gov

www.michigan.gov/deqsara

For federal express or UPS deliveries:

Michigan SARA Title III Program
DEQ - ESSD
Constitution Hall, 1 North
525 West Allegan
Lansing, MI 48933

Planning information for LEPCs:

Michigan State Police
Emergency Management & Homeland Security
Division
4000 Collins Road
Lansing, MI 48909-8136
(517) 333-7776
E-mail Mr. James Breuker at:
breukerj1@michigan.gov

www.michigan.gov/emhds

Effective June 26, 2003, the Chemical Emergency Preparedness and Prevention Office (CEPPO) changed its name to the Office of Emergency Prevention, Preparedness and Response (OEPPR). This new office will consolidate OSWER's emergency prevention, preparedness, and response duties by joining together the Oil Program Center, Emergency Response & Removal Center and CEPPO. An OEPPR website is currently under construction. Until the new OEPPR website is completed, information regarding OEPPR will be posted on the CEPPO website.

Michigan's SARA Title III website has up-to-date information regarding Michigan SARA Title III reporting, TRI data, release reporting, emergency planning, LEPC contacts, and links to numerous websites with related information. The MSP-EMHSD website has information to help LEPCs and emergency responders.

Federal Information:

EPA's Superfund, TRI, EPCRA, RMP, and Oil Information Center:
(800) 424-9346 or (703) 412-9810
TDD: (800) 553-7672 or (703) 412-3323
Monday – Thursday 10 am to 3 pm, EST
Closed on Federal holidays.

www.epa.gov/superfund/contacts/infocenter

TRI Program website:
www.epa.gov/tri

CEPPO website:
<http://yosemite.epa.gov/oswer/ceppoweb.nsf>