

CHAPTER 1: OVERVIEW OF SARA TITLE III

THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT

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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 regarding emergency planning and Community Right-to-Know reporting on hazardous and toxic chemicals for federal, state, and local governments; Indian tribes; and industry. The Community Right-to-Know provisions help increase the public’s knowledge and access to information concerning chemicals at individual facilities,

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).

their uses, and chemical 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 (USEPA). 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 (MCCERC) as an advisory body within the Michigan Department of State Police. This 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.

What Does SARA Title III Cover?

SARA Title III has four major provisions:

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

Information gleaned from these four requirements helps 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 (CFR) 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 this guidebook.

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 the Local Emergency Planning Committee (LEPC) for the protection of the community. The plans address the off-site response to emergency releases of Extremely Hazardous Substances (EHS's) 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 EHS's.
- 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.
- Detail 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?

Each state's governor designated a SERC, which in turn designated local emergency planning districts and appointed an LEPC for each district. There are 87 LEPCs in Michigan – one for each of the 83 counties, as well as LEPCs for the cities of Ann Arbor, Detroit, 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, Great Lakes and Energy (EGLE) receives all reports on behalf of the SERC.** The Michigan Department of State Police, Emergency Management and Homeland Security Division, reviews the local emergency response plans and oversees the activities of the LEPCs.

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 LEPC 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 EHS' listed by the USEPA in 40 CFR 355 (see 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 EHS' 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 EHSs, 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.

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.

A written follow-up notice must be submitted to the SERC and the LEPC as soon as is 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. [Additional release reporting requirements and a release reporting form](#) that can be used to report releases under Section 304 are available at Michigan.gov/ChemRelease.

Hazardous Chemical Inventory (Sections 311 and 312)

Under the Occupational Safety and Health Administration (OSHA) regulations, employers must maintain a Safety Data Sheet (SDS) for any hazardous chemicals stored or used in the work place. Over 650,000 products have SDSs.

Note: The Hazard Communication Standard requires chemical manufacturers, distributors, or importers to provide SDSs (formerly known as Material Safety Data Sheets or MSDSs) to communicate the hazards of hazardous chemical products. As of June 1, 2015, new SDSs must be in a uniform format.

Section 311 of SARA Title III requires facilities that have SDSs for chemicals held above certain quantities to submit either copies of their SDSs or a list of these 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:

- Flammable (gases, aerosols, liquids, or solids)
- Gas under pressure
- Explosive
- Self-heating
- Pyrophoric (liquid or solid)
- Pyrophoric Gas
- Oxidizer (liquid, solid or gas)
- Organic peroxide
- Self-reactive
- In contact with water emits flammable gas
- Combustible Dust
- Corrosive to metal
- Carcinogenicity
- Acute toxicity (any route of exposure)
- Reproductive toxicity
- Skin Corrosion or Irritation
- Respiratory or Skin Sensitization
- Serious eye damage or eye irritation
- Specific target organ toxicity (single or repeated exposure)
- Aspiration Hazard
- Germ cell mutagenicity
- Simple Asphyxiant
- Hazard Not Otherwise Classified (HNOC)

Note: See page 1-7 of this chapter for USEPA changes to the hazard categories.

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

- The chemical name or common name as indicated on the SDS.
- 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 states have added requirements or incorporated the Federal contents in their own forms, Tier I or Tier II forms should be obtained from the state SERC. Section 312

information must be submitted every year on or before March 1.

In 1999, the USEPA excluded gasoline held at most retail gas stations from Section 311/312 reporting. The USEPA estimates that about 550,000 facilities, including approximately 6,000 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 online.

Toxic Chemical Release Inventory (Section 313)

Section 313, commonly referred to as the Toxic Chemical Release Inventory or TRI, requires certain facilities to annually report toxic chemical releases and waste management activities to the USEPA and the state by July 1. Facilities also must report information on source reduction, recycling, and treatment under the Pollution Prevention Act of 1990.

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 certain industry sectors. These sectors include manufacturing, metal mining, coal mining, electric utilities, hazardous waste treatment and disposal facilities, chemical distributors, petroleum bulk plants, solvent recovery services, and federal facilities.

A complete list of covered facilities is available at www.epa.gov/tri.

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 data can also be used to:

- Identify sources of toxic chemical releases.
- Help analyze potential toxic chemical hazards to human health and the environment.
- Encourage pollution prevention at facilities.

The following information is required on the form:

- The name, location and type of business.
- Whether the chemical is manufactured (including imported), processed, or otherwise used, and the general categories of use of the chemical.
- An estimate of the maximum amount of the toxic chemical present at the facility at any one 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, and the amount transferred.
- Waste treatment methods and the efficiency of methods for each waste stream.

The USEPA maintains the TRI information in a national database that is available to the public online.

What Else Does SARA Title III Require?

Trade Secrets

SARA Title III 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, although 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 the USEPA. The Agency must review the claim and rule on its validity.

Penalties

SARA Title III Section 325 allows criminal penalties as follows:

- 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.
- SARA Title III does not provide for criminal sanctions for violations of Section 313. However, 18 U.S.C. §1001 makes it a criminal offense to falsify information submitted to the U.S. Government.

SARA Title III Section 325 and the Debt Collection Improvement Act of 1996 and its implementing regulations at 40 CFR 19 allow civil and administrative penalties as follows:

- Any person that fails to comply with emergency release notification requirements in CERCLA Section 103 or SARA Title III Section 304 shall be liable for civil penalties of up to \$53,907 per day per violation. The penalty for subsequent or repeat violations is \$161,721 per violation per day.
- Any person that violates hazardous chemical inventory reporting requirements in Section 311 of SARA Title III shall be liable for civil and administrative penalties of not more than \$21,563 per day per violation.
- Any person that violates hazardous chemical inventory reporting requirements in Section 312 of SARA Title III shall be liable for civil and administrative penalties of not more than \$53,907 per day per violation.
- Any person that violates toxic chemical release inventory reporting requirements in Section 313 of SARA Title III shall be liable for civil penalties not to exceed \$53,907 for each day that each chemical is not reported or incorrectly reported.

Note: The USEPA has adjusted its SARA Title III Civil Penalties. This action, mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through 2015, prescribes a formula for adjusting statutory civil penalties to reflect inflation, maintain the deterrent effect of statutory civil penalties, and promote compliance with the law. For additional information see the [Civil Monetary Penalty Inflation Adjustment Rule](http://www.federalregister.gov/articles/2016/07/01/2016-15411/civil-monetary-penalty-inflation-adjustment-rule) at www.federalregister.gov/articles/2016/07/01/2016-15411/civil-monetary-penalty-inflation-adjustment-rule.

Citizens' Suits

SARA Title III Section 326 allows citizens to initiate civil actions against the USEPA, 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 the USEPA 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 EHS's. 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 (CAA) Amendments require the USEPA 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 the USEPA's risk management program rules must submit a Risk Management Plan (RMP) summarizing their program to the USEPA. If a facility will respond to a release, it must coordinate the RMP with the LEPC off-site emergency response plan. If a facility will not respond to a release of the toxic chemicals it contains, it must confirm that the facility is included in the LEPC off-site emergency response plan. Facilities that have flammable substances must confirm coordinated response actions with their local fire departments.

On November 20, 2019, USEPA finalized changes to the Risk Management Program (RMP) Amendments to better address potential security risks, regulatory consistency and reasonable consideration of costs. The changes are intended to promote better emergency planning and public information about accidents and maintain the trend of fewer significant accidents involving chemicals regulated under the RMP rule. The changes reflect issues raised in three petitions for reconsideration of the RMP Amendments as well as other revisions USEPA identified in its review of that rule.

The RMP Reconsideration final rule:

- Rescinds all major accident prevention program provisions of the RMP Amendments rule (i.e., third party audits, safer technology and alternatives analyses, incident investigation root cause analysis), and most other minor changes to the prevention program.
- Rescinds the public information availability provisions of the RMP Amendments rule.
- Retains the requirement to hold a public meeting within 90 days after an accident, but only applies the requirement to accidents with offsite impacts.
- Modifies the emergency coordination provisions to address security concerns with the Amendments rule coordination provisions.
- Modifies the exercise provisions to give more flexibility to regulated facilities and local emergency responders in complying with these provisions.
- Modifies some compliance dates to provide necessary time for program changes.

For more information, please see [Final RMP Reconsideration Rule Webpage](http://www.epa.gov/rmp/final-risk-management-program-rmp-reconsideration-rule)
www.epa.gov/rmp/final-risk-management-program-rmp-reconsideration-rule

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 Occupational Safety and Health Administration 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 Public Act (PA) 207] requires owners and operators of facilities to provide the local fire department with the quantities and locations of chemicals specified by the fire chief.

Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, 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.

USEPA's Audit Policy and Self-Disclosure

Owners and operators are strongly encouraged to audit their facilities to confirm that they are in compliance with all environmental regulations. If violations are discovered, disclosed, and corrected in accordance with the USEPA's Audit Policy or the Small Business Compliance Policy described here, penalties may be mitigated up to 100 percent.

The [USEPA's Audit Policy - The Center for Regulatory Effectiveness](#) has been in effect since 1995 (www2.epa.gov/compliance/epas-audit-policy). It reflects input from industry, trade associations, state environmental programs, and public interest groups. The Audit Policy is designed to provide incentives for regulated entities to come into compliance with the federal environmental laws and regulations. These incentives are for regulated entities that voluntarily discover, promptly disclose, and expeditiously correct noncompliance, making formal USEPA investigations and enforcement actions unnecessary.

The [Small Business Compliance Policy](#) (www.epa.gov/compliance/small-business-compliance) promotes environmental compliance among small businesses (those with 100 or fewer employees) by providing incentives to discover and correct environmental problems. The USEPA will eliminate or significantly reduce penalties for small businesses that voluntarily discover violations of environmental law and promptly disclose and correct them. For more information, see the [Small Business Resources Information Sheet](#).

Changes to the SARA Title III Regulations

Technical Amendment - Trade Secrecy Claims and Emergency Planning Notification Under Section 322 in 2020

The USEPA published a technical amendment on July 24, 2020 to remove the outdated substantiation form for trade secrecy claims from the Code of Federal Regulations. The most current substantiation form is posted on the [USEPA program website](#)

(www.epa.gov/epcra/epcra-trade-secret-forms-and-instructions). The Agency also included clarification within a note in 40 CFR 355.41 to make regulated entities aware that SERCs and/or LEPCs may have a specific format for the follow-up report of the emergency release notification information.

[Technical Amendment - Trade Secrecy Claims and Emergency Planning Notification.](#)

Amendments to EPCRA Section 312 in 2018

Section 2018 of the America's Water Infrastructure Act (AWIA) also amended EPCRA Section 312, requiring SERCs, TERCs, LEPCs, and TEPCs to provide affected community water systems with Tier II information for facilities within their source water area upon request. Source water areas may span multiple jurisdictional boundaries at the state, tribal, and local levels, potentially requiring access to Tier II information from multiple SERCs, TERCs, LEPCs, or TEPCs. If a facility has not complied with Tier II reporting requirements, then the SERC (or TERC) and LEPC (or TEPC) should request that the facility submit its Tier II form and then provide Tier II information to the affected community water systems.

Amendments to EPCRA Section 304 in 2018

Section 2018 of the America's Water Infrastructure Act (AWIA), enacted on October 23, 2018, amended EPCRA Section 304 to require SERCs and TERCs to promptly notify the state drinking water primacy agency (i.e., applicable state agency) of any reportable release and provide this agency with:

- The information collected under section 304(b) from the initial release notification; and
- The follow-up written report received under section 304(c).

The state drinking water primacy agency is then required to promptly provide all the information regarding the release to any community water systems whose source water is affected by the release. A community water system's source water is potentially affected if the release occurs in that system's source water area (also known as a source water protection area) or upstream of the system's water intake. Drinking water primacy agencies and community water systems can provide the boundaries for source water protection areas to the SERCs and TERCs. For states with no state drinking water primacy agency, the SERC and TERC are required to directly notify the potentially affected community water systems.

Changes to Hazard Categories for Reporting Under Sections 311 and 312 in 2018

The final rule outlined below is now effective as of January 1, 2018. This means moving forward facilities are now required to report the revised physical and health hazards (see tables below) for their hazardous chemicals present during 2017 calendar year. These changes are now in effect in the Michigan Tier II Manager™ program.

This final rule revises the hazard categories in the regulations at 40 CFR Part 370, for reporting under Sections 311 and 312 of the EPCRA. On March 26, 2012, OSHA revised its Hazard Communication Standard (HCS) by adopting the United Nations Globally Harmonization System of Classification and Labeling of Chemicals (GHS). The changes to OSHA's HCS affect the reporting requirements under Sections 311 and 312 of the EPCRA.

What are the reporting requirements of the EPCRA Sections 311 and 312?

Sections 311 and 312 of the EPCRA contain provisions for hazardous chemical inventory reporting. Facilities that handle hazardous chemicals defined under the Occupational Safety and Health Act of 1970 and its implementing regulations must provide information on the quantity, locations, and the potential hazards of these chemicals. This information is submitted to the SERC or Tribal Emergency Response Commission (TERC), LEPC or Tribal Emergency Planning Committee (TEPC), and the fire department.

Section 311 requires facilities to submit the SDSs of hazardous chemicals present at or above the reporting thresholds specified in the regulations at 40 CFR Part 370. Facilities may also submit a list of hazardous chemicals grouped into hazard categories, instead of the SDSs.

Section 312 requires these facilities to submit the hazardous chemical inventory form to their SERC (or TERC), LEPC (or TEPC), and the fire department by March 1, annually. The inventory form provides the physical and/or health hazard of each hazardous chemical, their locations, and quantities that were present at the facility during the previous calendar year.

What is the Background of this Final Rule?

The statute specifies that the list of hazardous chemicals reported under Section 311 and the inventory forms reported under Section 312 should be based on the physical and health hazards established under OSHA and its implementing regulations. The statute also states that the USEPA may modify the physical and health hazards set forth by OSHA and its implementing regulations. Accordingly, the USEPA modified OSHA's 23 physical and health hazards into five hazard categories (three physical and two health hazard categories) for facilities to use for reporting under Sections 311 and 312. Facilities have been using these five hazard categories since the regulations were promulgated in 1987.

On March 26, 2012, OSHA published a final rule to revise the HCS due to OSHA's adoption of the GHS classification and labeling of chemicals. GHS is a standardized approach for classifying chemicals by their health, physical, and environmental effects, and communicates this information to downstream users by using consistent signal words, pictograms, hazard statements, etc., on labels and SDSs. OSHA adopted the classification criteria and provisions that are appropriate to its existing standards for hazard communication for labeling and SDSs. Under the revised HCS, chemical manufacturers and importers are required to evaluate their chemicals to ensure that they are classified and labeled appropriately.

What are the Revisions to Hazard Categories for Reporting under Sections 311 and 312?

The classifications of chemicals that OSHA adopted from GHS affect the reporting requirements under the EPCRA, Sections 311 and 312. As stated in the statute, facilities are required to report the quantities, locations, and the potential hazards of the chemicals to the SERC (or TERC), LEPC (or TEPC), and the local fire department. Therefore, the USEPA is revising the existing hazard categories in 40 CFR Part 370, to conform to the hazard classes in the revised OSHA HCS. Although the physical and health hazards in OSHA HCS prior to the 2012 revisions are the same as the revised hazards, the descriptions of each hazard are more detailed. See tables below for descriptions of physical and health hazard classes before and after adopting GHS provisions.

Physical Hazard Classes in OSHA Hazard Communication Standards (HCS)

Physical Hazards (prior to GHS adoption)	Physical Hazards (after adoption, revised in 2012)
Combustible liquid	Flammable (gases, aerosols, liquids, or solids)
Compressed Gas	Gas under pressure
Explosive	Explosive
Flammable	Self-heating
Pyrophoric	Pyrophoric (liquid or solid)
Oxidizer	Oxidizer (liquid, solid, or gas)
Organic Peroxide	Organic peroxide
Unstable (Reactive)	Self-Reactive
Water-Reactive	In contact with water emits flammable gas
	Corrosive to metal
	Hazard Not Otherwise Classified (HNOC)

Health Hazard Classes in OSHA Hazard Communication Standards (HCS)

Health Hazards (prior to GHS adoption)	Health Hazards (after adoption, revised in 2012)
Carcinogens	Carcinogenicity
Toxic or highly toxic agents	Acute toxicity (any route of exposure)
Reproductive toxins	Reproductive toxicity
Irritants; Corrosives	Skin Corrosion or Irritation
Sensitizers	Respiratory or Skin Sensitization
Agents which damage the lungs, skin, eyes, or mucous membranes	Serious eye damage or eye irritation
Hepatotoxins	Specific target organ toxicity (single or repeated exposure)
Nephrotoxins	Germ cell mutagenicity
Neurotoxins	Aspiration Hazard
Agents which act on the hematopoietic system	Hazard Not Otherwise Classified (HNOC)

In addition to the hazards adopted from GHS, OSHA specifically added three hazards that were not yet covered by GHS. These are: simple asphyxiant; combustible dust; and pyrophoric gas. Soon after OSHA's HCS 2012 final rule was published, many stakeholders requested the USEPA adopt physical and health hazard classes as described in the revised HCS. The stakeholders expressed that, if the USEPA adopted these physical and hazard classes, it would be less burdensome to:

- The regulated community, as they would only need to copy the chemical hazard information from the SDS.
- The implementing agencies, as they could more easily compare the hazard information provided on each SDS with the information provided on the list of hazardous chemicals and the inventory form. Under this final rule, the USEPA is adopting the hazard classes as they are in the revised HCS for reporting under Sections 311 and 312.

Physical and Health Hazards (to be effective January 1, 2018)

Physical Hazard	Health Hazards
Flammable (gases, aerosols, liquids, or solids)	Carcinogenicity
Gas under pressure	Acute toxicity (any route of exposure)
Explosive	Reproductive toxicity
Self-heating	Skin Corrosion or Irritation
Pyrophoric (liquid or solid)	Respiratory or Skin Sensitization
Pyrophoric Gas	Serious eye damage or eye irritation
Oxidizer (liquid, solid or gas)	Specific target organ toxicity (single or repeated exposure)
Organic peroxide	Aspiration Hazard
Self-reactive	Germ cell mutagenicity
In contact with water emits flammable gas	Simple Asphyxiant
Combustible Dust	Hazard Not Otherwise Classified (HNOC)
Hazard Not Otherwise Classified (HNOC)	
Corrosive to metal	

What is the Effective Date of this Final Rule?

Many states have developed their own software for hazardous chemical inventory reporting. Other states use Tier2 Submit, electronic software developed by the USEPA. To provide enough time for states (as well as the USEPA) to modify the software to incorporate the new hazard classes, this final rule is now in effective as of January 1, 2018. Facilities are now required to report the revised physical and health hazards for their hazardous chemicals present during the 2017 calendar year.

More information is available online at epa.gov/epcra/epcra-non-section-313-amendments-and-guidance%23technical%20amendment.

2012 Revisions to Tier II

On July 13, 2012, the USEPA published the final rule in the Federal Register [77 Federal Register (FR) 41300] that revised the Tier II hazardous chemical inventory report form by adding mandatory and optional data elements to the facility identification and contact information section. It also revised some existing data elements in the chemical reporting section.

The new and revised report elements include:

- Indication if the facility is manned or unmanned.
- An estimate of the maximum number of occupants at one time.
- Indication if the facility is subject to the chemical accident prevention requirements under Section 112(r) of the CAA, also known as the RMP.
- Facility identification numbers assigned under the TRI and the RMP, if subject.
- Indication if the facility is subject to the emergency planning notification requirement under Section 302.
- Parent company details (different from owner/operator details) as optional data elements.
- Emails for facility owner or operator, and emergency contact.
- Name, title, phone number, 24-hour phone number, and email of the facility emergency coordinator, if subject to Section 302.
- Name, title, phone number, and email of person to contact regarding information in the Tier II report.
- Replace storage codes with actual language (i.e., above ground tank, above ambient pressure, cryogenic).
- Changed inventory range codes to cover a smaller range:
 - Old highest range code is $11 \geq 1$ billion.
 - New highest range code is $13 \geq 10$ million.

2012 Revision to Section 302

On March 22, 2012, the USEPA published the final rule in the Federal Register (77 FR 16679) that revises the manner for applying the threshold planning quantities (TPQs) for those EHS's that are non-reactive solid chemicals in solution. The revision allows facilities that have a non-reactive solid EHS in solution to first multiply the amount of the solid chemical in solution on site by 0.2 before determining if this quantity equals or exceeds the lower published TPQ. This rule became effective on April 23, 2012.

2010 Interpretations of Sections 304, 311 and 312

On July 13, 2010, the USEPA published in the Federal Register (75 FR 39852) guidance on reporting options for Sections 311 and 312, and interpretations. The emergency release notification in 40 CFR 355.40 states that a written follow-up report must be provided by the facility “as soon as practicable” after a release. The USEPA has decided that 30 days should be sufficient to submit the written follow-up notice of the emergency release to the SERC and LEPC.

Under SARA Title III Section 311(e)(2), “Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use” is exempt from the definition of hazardous chemical and, therefore, need not be reported under Sections 311 and 312. Under the USEPA’s new interpretation, facilities will only have to include and count the amount of fume or dust emitted or released from a manufactured solid that is being modified to determine if the SARA Title III Sections 311 and 312 reporting thresholds have been reached. This interpretation applies to metal, bricks, and any other manufactured solid items that undergo a modification process. It does not apply to lead in batteries.

This guidance also included an option for states to use the Section 312 reporting to fulfill the reporting requirements under Section 311.

2008 Amendments to Sections 302 – 312

On October 17, 2008, the USEPA finalized several changes to the SARA Title III regulations (40 CFR Parts 355 and 370). These changes were proposed on June 8, 1998 [63 FR 31268], and took effect ten years later on December 3, 2008 (73 FR 65452).

All sections of 40 CFR Parts 355 and 370 are 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.

- The Tier I and Tier II forms and their instructions have been removed from the CFR. They may now be found on the USEPA’s Emergency Management website.
- 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.
- The chemical or common name of the chemical, as provided on the SDS, must be provided on the Tier II form.
- When determining whether the threshold quantity of an EHS has been met, facilities must report the total quantity of that EHS present: add together the quantity present in its pure form and as a component in all mixtures.

- For hazardous chemicals that are mixtures and do not contain any EHS, facilities have an option when determining whether the threshold quantity is present:
 - 1) Add together the quantity present in its pure form and as a component in all mixtures (even if the mixture is also being reported as a hazardous chemical), **or**
 - 2) Consider the total quantity of each mixture separately.

TRI Revisions

On November 26, 2010, the USEPA finalized a rule (75 FR 72727) to provide communities with additional information about toxic chemicals being released to the environment. The rule was effective on November 30, 2010 and added 16 chemicals to the TRI list of reportable chemicals.

On October 17, 2011, the administrative stay for reporting hydrogen sulfide was lifted (76 FR 64022). The TRI reports for report year 2012 were the first to include hydrogen sulfide.

On April 19, 2012, the USEPA finalized a rule (77 FR 23409) that requires each facility located in tribal lands to submit their TRI reports to the USEPA and the appropriate tribal government, rather than to the state in which the facility is located.

On August 27, 2013, the USEPA finalized a rule (78 FR 52860) that requires TRI reports to be submitted online to the USEPA using the electronic reporting software provided by the USEPA.

On November 7, 2013, the USEPA finalized a rule (78 FR 66848) that adds *ortho*-nitrotoluene to the TRI list of reportable chemicals.

The FR notices published by [the Office of the Federal Register, National Archives and Records Administration](#), can be viewed online at archives.gov/federal-register/.

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 in Tier II Manager™	Within 60 days after threshold reached	Michigan SARA Title III Program LEPC
304	Emergency Chemical Release – Initial Notification		Within 15 minutes after discovery	Pollution Emergency Alerting System (PEAS) at 800-292-4706 or Michigan Department of Agriculture and Rural Development Hotline at 800-405-0101 All LEPCs potentially affected by the release U.S. Coast Guard National Response Center at 800-424-8802
304	Emergency Chemical Release – written Follow-up	Spill or Release Report	Within 30 days after the release	Michigan SARA Title III Program All LEPCs affected by the release
311	Initial Hazardous Chemical Inventory	Online in Tier II Manager™	Within 3 months after threshold reached	Michigan SARA Title III Program LEPC Local fire department
312	Tier II – Emergency and Hazardous Chemical Inventory	Tier II 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 online in TRI-MEweb	Annually, by July 1	Michigan SARA Title III Program USEPA TRI Data Processing Center

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

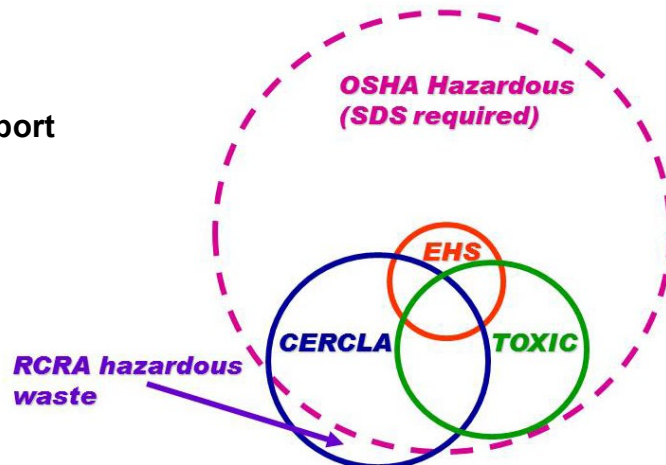
Summary of Chemicals Covered by SARA Title III Requirements

OSHA: Tier II

EHS: Emergency Plan and Release Report

CERCLA: Release Report

Toxic: TRI



On this diagram, the large circle with the dashed line represents the universe of over 650,000 **OSHA Hazardous Chemicals**. These chemicals are potentially subject to Emergency and Hazardous Chemical Inventory reporting under Sections 311 and 312 (Tier II report) of SARA Title III. The line is dashed because there is **no list** of these chemicals.

The **Extremely Hazardous Substances** (EHS on the diagram) are listed, so the circle has a solid line. Each of the 355 EHS's has an associated threshold planning quantity for emergency planning pursuant to SARA Title III Sections 302 and 303, and a reportable quantity for release reporting under SARA Title III Section 304. The EHS's are also subject to Emergency and Hazardous Chemical Inventory reporting unless an exemption applies ([see Chapter 3, What Chemicals Are Excluded](#)).

The **EHS's** are listed and have associated reportable quantities for release reporting under CERCLA Section 103 and SARA Title III Section 304. There are over 770 CERCLA hazardous substances that include hazardous waste subject to RCRA regulations. Part of the CERCLA group falls outside of the OSHA group. This is because OSHA does not require that an SDS be maintained for hazardous waste. Therefore, RCRA hazardous waste is not reportable on the Tier II report, but a release that is above the listed reportable quantity must be reported.

The USEPA published a list of approximately 650 **toxic chemicals** and chemical categories (Toxic on the diagram). Pursuant to SARA Title III Section 313, "subject facilities" must submit a TRI report for each toxic chemical that exceeds an activity threshold ([see Chapter 4, SARA Title III Section 313](#)).

The listed substances (EHS, CERCLA Hazardous, and toxic chemicals) are included in the *List of Lists* located in [Appendix B](#) of this guidebook or at [epa.gov/epcra/consolidated-list-lists-under-epcracerclacaa-ss112r-august-2020-version](https://www.epa.gov/epcra/consolidated-list-lists-under-epcracerclacaa-ss112r-august-2020-version).

Where Can You Find SARA Title III Information?

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

EPCRA Sections 302-312 are administered by the USEPA's Office of Emergency Management. The USEPA's Office of Environmental Information implements the EPCRA Section 313 program. The USEPA's Emergency Management website has links to SARA Title III regulations; the links offer an abundance of chemical information, including the "List of Lists" located in Appendix B of this guidebook [a consolidated list of chemicals subject to SARA Title III Sections 302, 304, and 313, CERCLA, the CAA Section 112r, and Resource Conservation and Recovery Act (RCRA)], SDSs, profiles of EHS, and TRI information). The USEPA's Environmental Information website has links to the TRI Program and environmental information, including the TRI and multi-media data and information sources.

Michigan's SARA Title III website has up-to-date information regarding Michigan SARA Title III reporting, TRI data, release reporting, emergency planning, and LEPC contacts, and links to numerous websites with related information. The Michigan State Police Emergency Management and Homeland Security Division Web site has information to help LEPCs and emergency responders.

Michigan Information

Reporting and LEPC contact information:

Michigan Department of Environment, Great Lakes and Energy (EGLE)

SARA Title III Program

P.O. Box 30457

Lansing, MI 48909-7957

517-284-SARA (7272)

egle-sara@michigan.gov

Michigan.gov/SARA

For federal express or UPS deliveries:

Michigan SARA Title III Program

EGLE - ESD

Constitution Hall, 1 South

525 West Allegan

Lansing, MI 48933

Planning information for LEPCs:

Michigan State Police

Emergency Management and Homeland

Security Division

4000 Collins Road

Lansing, MI 48909-8136

EMHSTC@michigan.gov

Michigan.gov/EMHSD

Federal Information:

USEPA Superfund, TRI, EPCRA, RMP, and Oil Information Center

800-424-9346

TDD: 800-553-7672

Monday – Friday 9 am to 5 pm, EST

Closed on Federal holidays

wepa.gov/epcra/forms/contact-us-about-emergency-planning-and-community-right-know-act-epcra

TRI Program website:

epa.gov/toxics-release-inventory-tri-program

Emergency Response | USEPA

www.epa.gov/emergency-response

USEPA Environmental Information website:

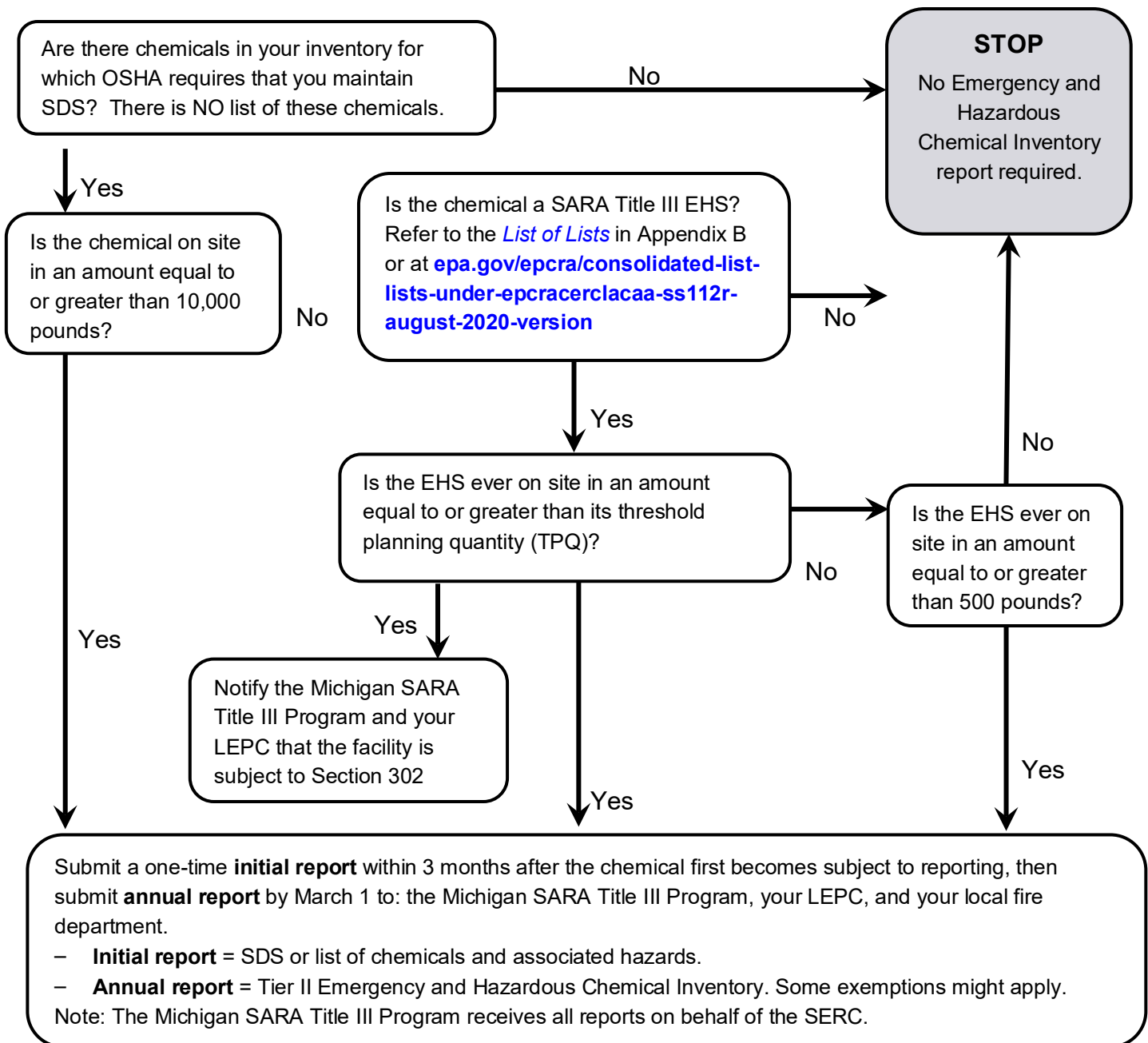
epa.gov/oei

MCCERCC acting as Michigan's SERC
website:

Michigan.gov/MCCERCC

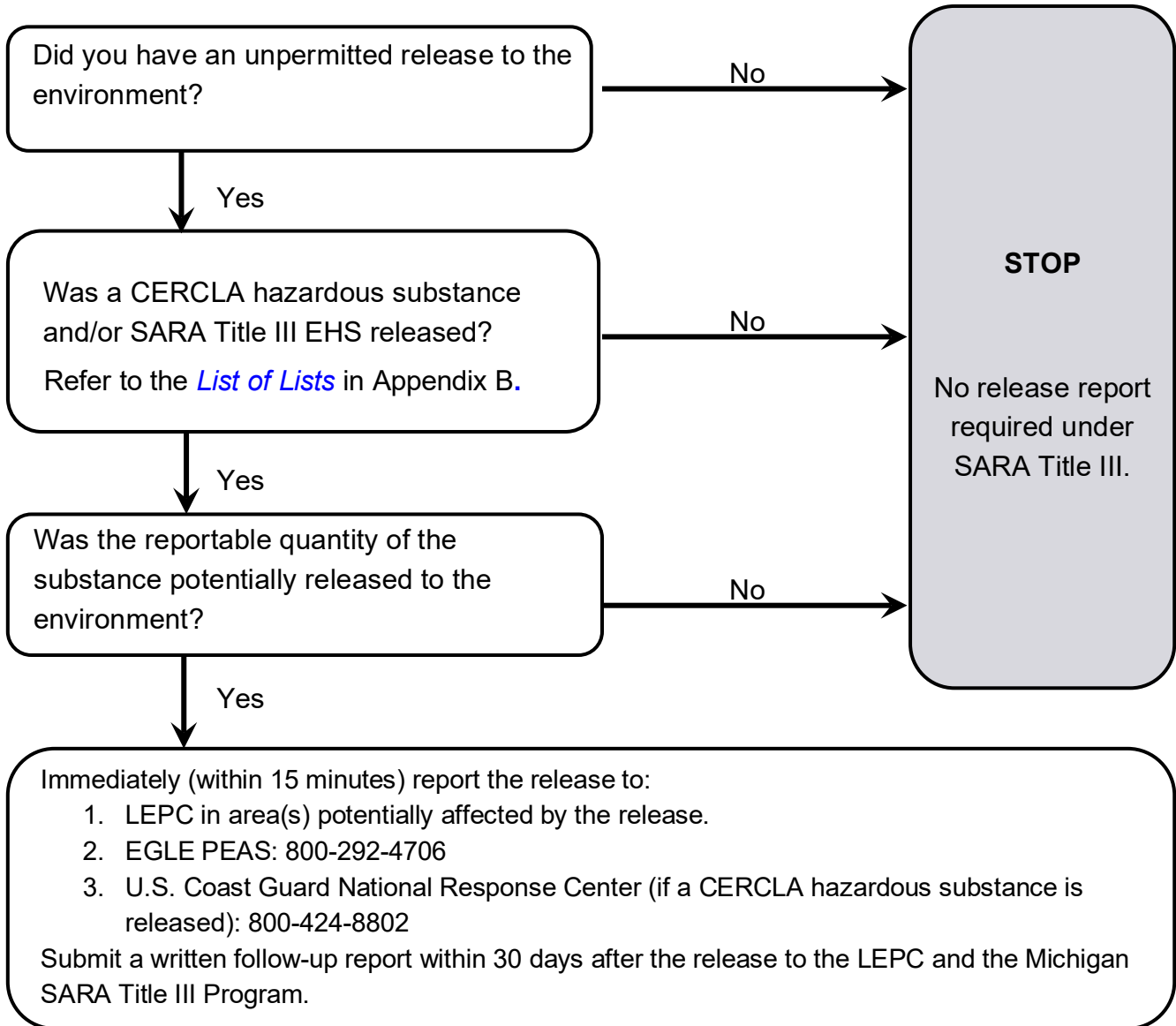
Emergency and Hazardous Chemical Inventory Reporting SARA Title III – Sections 311 and 312

SARA Title III is the EPCRA



Release Reporting - SARA Title III – Section 304

SARA Title III is the EPCRA



Toxic Chemical Release Inventory Reporting SARA Title III – Section 313

SARA Title III is the EPCRA

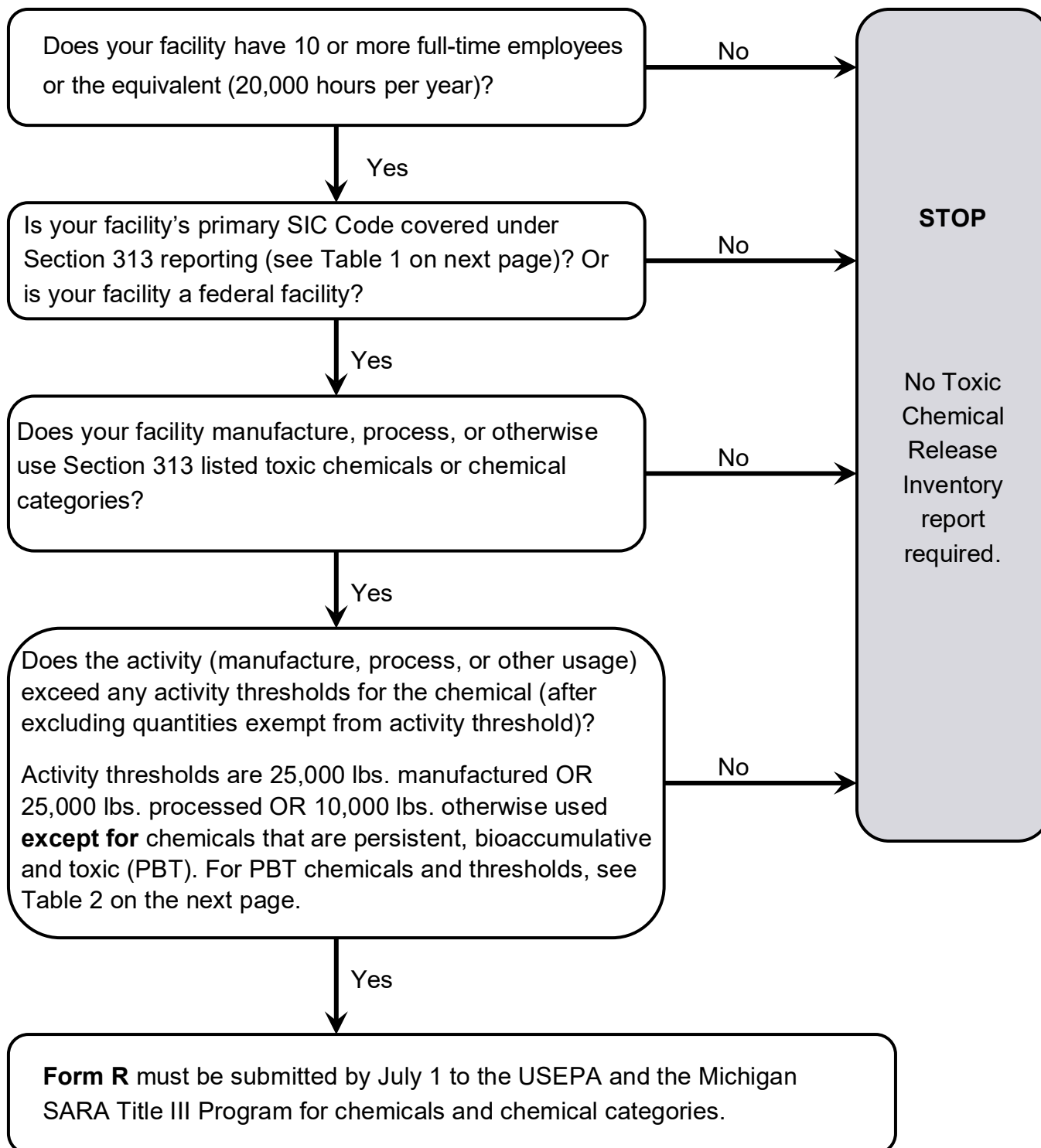


Table 1. TRI Covered Industries by Industry Classification

Industry	SIC Codes	NAICS
Manufacturing	20-39	311-339
Metal Mining	10 (except 1011, 1081, and 1094)	21222, 21223, 21229
Coal Mining	12 (except 1241)	21211
Electrical utilities	4911, 4931, and 4939 (limited to facilities that combust coal and/or oil for purpose of generating electricity for distribution in commerce)	22111, 22112
Treatment, storage and disposal facilities	4953 (limited to RCRA Subtitle C permitted or interim status facilities)	56221
Chemical distributors	5169	42469
Petroleum bulk terminals	5171	42471
Solvent recovery services	7389 (limited to facilities primarily engaged in services on a contract or fee basis)	32599
Federal facilities	Must report by Executive Order 13148.	

Note: Beginning with Report Year 2006, facilities will report the six-digit North American Industry Classification System (NAICS) code that corresponds to the Standard Industrial Classification (SIC) code in the regulation.

Table 2. EPCRA Section 313 Listed PBT Chemicals and Activity Thresholds

Chemical	Threshold (in pounds unless otherwise noted)
ALDRIN	100
BENZO(G,H,I)PERYLENE ♦	10
CHLORDANE	10
DIOXIN AND DIOXIN-LIKE COMPOUNDS ♦	0.1 grams
HEPTACHLOR	10
HEXACHLOROBENZENE	10
ISODRIN	10
LEAD* (not contained in stainless steel, bronze, or brass alloy)	100
LEAD COMPOUNDS *	100
MERCURY	10
MERCURY COMPOUNDS	10
METHOXYCHLOR	100
OCTACHLOROSTYRENE ♦	10
PENDIMETHALIN	100
PENTACHLOROBENZENE ♦	10
POLYCHLORINATED BIPHENYLS	10
POLYCYCLIC AROMATIC COMPOUNDS +	100
TETRABROMOBISPHENOL A (TBBPA) ♦	100
TOXAPHENE	10
TRIFLURALIN	100

Note: PBT chemical reporting effective for 2000 report year, except lead and lead compounds, which were effective for 2001.

♦ Chemical subject to EPCRA Section 313 reporting beginning in 2000.

+ 21 chemicals included in PAC category.

* Thresholds effective for 2001 reporting year.