

C H A P T E R 4

SARA TITLE III SECTION 313

- **Toxic Chemical Release Inventory Reporting**

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SARA Title III Section 313 Toxic Chemical Release Inventory Reporting 40 CFR 372

Section 313 of Title III of the Superfund Amendments & Reauthorization Act (SARA Title III) of 1986 is commonly referred to as the Toxic Chemical Release Inventory or **TRI**. SARA Title III, also known as the Emergency Planning and Community Right-to-Know Act (EPCRA), is a federal act. Section 313 requires certain facilities to complete a report annually for specified toxic chemicals. Reports must be submitted to both the Environmental Protection Agency (EPA) and the State Emergency Response Commission (SERC) by July 1, and covers releases and other waste management activities of listed **toxic chemicals** during the preceding calendar year. Facilities also must report information on source reduction, recycling, and treatment under the Pollution Prevention Act of 1990.

The Michigan SARA Title III Program accepts all reports on behalf of the State Emergency Response Commission (SERC).

The discussion below provides very basic information and generalizations about TRI reporting to assist the reader in determining whether the facility may have reporting obligations under section 313. For specific information, refer to EPA's "Toxic Chemical Release Inventory Reporting Forms and Instructions" (hereafter the Instructions). The Instructions are produced every report year and contain detailed information and examples to help the user determine reporting obligations and complete the reports. The Instructions identify any changes in the requirements, chemical list, or forms since the previous report year.

Subject Facilities

A facility is subject to TRI reporting if it meets three criteria:

- has ten or more full-time employees (or the equivalent of 20,000 hours per year),
- is a "covered" industry based on its primary Standard Industrial Classification (SIC) Code or is a federal facility, and
- manufactures (including import), processes, or otherwise uses a listed toxic chemical or chemical compound above a certain amount based on the activity for that toxic substance.

Section 313 defines a facility as "all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites" (40 CFR 372.3) and having a single owner or operator. A facility may have more than one establishment at a site.

Beginning with Report Year (RY) 2006, facilities report North American Industry Classification System (NAICS) codes in place of the SIC codes for section 313 reporting. Facilities used 2002 NAICS codes for two report years. Facilities will use 2007 NAICS codes on TRI reports beginning with the 2008 report year. Table 1 shows the covered industries, the SIC Major Group code and suggested corresponding NAICS groups. However, a facility should refer to the cross-walk between SIC and NAICS on the U.S. Census Bureau website (www.census.gov/eos/www/naics) to determine its primary NAICS code.

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Table 1. TRI Covered Industries by Industry Classification

Industry	SIC Codes	NAICS (suggested)
Manufacturing	20-39	311-339
Metal Mining	10 (except 1011, 1081, and 1094)	21222, 21229, 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.	

Toxic chemicals and activity thresholds

Approximately **650 toxic chemicals** and chemical compound categories are currently reportable under section 313. These chemicals are listed in the Code of Federal Regulations (40 CFR 372.65 and 40 CFR 372.28). The EPA can add, remove, or modify the section 313 chemicals that must be reported and facilities should check each year for changes to the toxic chemical registry. The Instructions include the list of chemicals. The reportable chemicals are also included in the EPA “List of Lists”; this is a consolidated list of chemicals that are subject to EPCRA and section 112(r) of the Clean Air Act.

Activity thresholds are based on the manufacture, process, or otherwise use of section 313 chemicals over a calendar year. Activity thresholds are 25,000 pounds manufactured *or* 25,000 pounds processed *or* 10,000 pounds otherwise used for chemicals that are *not* persistent, bioaccumulative and toxic (PBT).

PBT Chemicals

Beginning with the 2000 TRI report year, EPA set lower activity thresholds for a group of chemicals identified as persistent, bioaccumulative and toxic, or **PBT**. For RY2001, lead and lead compounds were reclassified as PBT except lead that is in stainless steel, brass, or bronze alloys. This exception retains the higher activity thresholds. The PBT chemicals and activity thresholds are listed in Table 2.

Activity Thresholds

When determining whether a section 313 chemical exceeds an activity threshold, a facility must look at each activity *separately* for each chemical. Once an activity threshold is exceeded, a facility must determine releases and quantities managed as waste from *all* uses of the chemical at the facility. This includes any quantities of waste resulting from spills, remedial activities, or catastrophic events.

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Activities

- *Manufacture* – means to produce, prepare, compound, or import into the country a section 313 chemical. This includes chemicals manufactured as an impurity or byproduct.
- *Process* – means the preparation of a section 313 chemical, after its manufacture, for distribution into commerce. Processing usually involves the incorporation of a section 313 chemical into a product.
- *Otherwise Use* – means any other use of a section 313 chemical that is not manufactured or processed.

Exemptions

Exemptions to activity threshold determination and release and other waste management calculations are allowed for

certain situations. These exemptions are briefly explained below. The TRI Instructions provide a detailed discussion of the exemptions.

- *Article exemption* – applies to section 313 chemicals contained in articles that are processed or otherwise used at a covered facility. The item or article must meet three specific criteria to retain the article exemption. Briefly, the article must (1) be formed to a specific shape or design during manufacture, (2) have end use functions dependent in whole or in part upon its shape or design, and (3) not release a toxic chemical under normal circumstances of processing or otherwise use of the item at the facility.
- *De minimis exemption* – applies to certain minimal concentrations of non-PBT section 313 chemicals in mixtures or trade name products that are processed or otherwise used. The de minimis concentration in a mixture "...is below 1 percent of the mixture, or 0.1 percent of the mixture in the case of a toxic chemical which is a carcinogen..." (40 CFR 372.38). De minimis concentrations are included in the section 313 chemical list in the Instructions.
 - De minimis does not apply to the manufacture of a section 313 chemical except when the chemical is manufactured as an impurity and remains in the product that is distributed in commerce.
 - De minimis does not apply to any PBT chemical.

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 was effective for 2000 except lead and lead compounds which were effective for 2001.

♦ New chemical subject to EPCRA Section 313 reporting for 2000.

+ Two new chemicals added to PAC category; 21 chemicals now included in PAC category.

* Thresholds effective for 2001 reporting year.

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- *Motor vehicle exemption* – applies to the otherwise use of products containing section 313 chemicals used for maintaining motor vehicles operated at the facility, i.e. gasoline, batteries, cleaning solutions.
- *Otherwise use exemption* – applies to other uses of products containing section 313 chemicals. The otherwise use exemption includes chemicals used to maintain the facility structure, for routine janitorial or facility grounds maintenance, or for personal use by employees. This exemption does not apply to process-related equipment. Chemicals contained in intake water (used for processing or non-contact cooling) or in intake air (used either as compressed air or for combustion) may also be exempt.
- *Laboratory activities exemption* – applies to section 313 chemicals used in a laboratory under the direct supervision of a “technically qualified individual.”
- *Coal extraction activities exemption* – applies to a section 313 chemical that is manufactured, processed or otherwise used in extraction by facilities in SIC Major Group 12, coal mining.
- *Metal mining overburden exemption* – applies to a section 313 chemical that is a constituent of overburden and that is processed or otherwise used by facilities in SIC Major Group 10, metal mining.

Toxic Chemical Release Inventory Report

If a facility determines that it meets the criteria, it must submit the “**Form R – Toxic Chemical Release Inventory Reporting Form**” by July 1 to EPA and the Michigan SARA Title III Program. Facilities must use the most recent version of the Form R report. One Form R report must be submitted for each chemical that exceeds an activity threshold. The last page of this section shows a sample of the Form R. Prior year reports must use Form R report for the respective year.

Each year, the EPA produces the Toxic Chemical Release Inventory Reporting Forms and Instructions and a reporting application called **TRI-ME** (TRI Made Easy). Any changes to reporting criteria are incorporated into the instructions and forms and TRI-ME. The materials are available on the EPA TRI Program website (www.epa.gov/tri).

EPA’s **TRI-ME** is an interactive application that helps a facility prepare, submit, and electronically certify the TRI reports. **TRI-MEweb** is web-based and currently has forms from RY2005-RY2007. **TRI-MEdesktop** is a software application that is installed on the computer each report year; this is the predecessor of **TRI-MEweb**. New dioxin reporting requirements beginning with RY2008 can only be submitted through **TRI-MEweb**. The process for report submission is discussed later in this document.

The Form R report data elements include:

- facility information
- chemical information
- releases
- off-site transfers
- on-site waste management activities
- source reduction and recycling

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Chemical Information

Facilities must identify the section 313 chemical or chemical compound category being reported, the reportable activity (manufacture, process, otherwise use), and the maximum amount on site at any one time during the calendar year. The chemical or chemical category name should be entered as it appears in the toxic chemical registry.

There are two exceptions to reporting a chemical name that is different from the section 313 list. A facility can report a generic chemical name if it has a substantiated claim of trade secrecy. Or, a facility can report a "mixture component identity" if the supplier is claiming the section 313 chemical identity is proprietary or trade secret. These exceptions are rare.

Dioxin and dioxin-like compounds category require additional data reporting. Beginning with RY2008, facilities have new reporting requirements for this category.

Releases and Transfers

The quantities of section 313 chemical releases or transfers off-site are reported in sections 5 and 6 of the Form R. Quantities are reported in pounds per year except for dioxin and dioxin-like compounds that is reported in grams per year.

Release/Disposal

Facilities report the quantities released and disposed on-site at the facility in **section 5**. On-site releases include air releases (both fugitive and stack emissions), surface water discharges, disposal to deep injection wells (Class I or Class II-V), and disposal to landfills or release to surface impoundments or other land disposal. For surface water discharges, facilities must include the stream or water body name and percent of discharge from stormwater.

Transfer

The quantities of section 313 chemicals in wastes transferred off-site are reported in **section 6**. This includes discharges to publicly owned treatment works (POTWs). Transfers to other off-site locations for disposal and further waste management must include the receiving facility name and address, quantity transferred, and a code that identifies whether the waste was disposed, recycled, treated, or used for energy recovery. For POTW discharges, facilities report the total amount discharged as well as the POTW facility information.

Waste management

Activities involving the section 313 chemicals in waste managed on site must be reported in **section 7**. Activities for on-site treatment, energy recovery, and recycling include:

- Treatment of the general waste stream containing the section 313 chemical.
- Energy recovery use for section 313 chemicals that have a significant heating value and are combusted in an energy recovery unit such as an industrial furnace, kiln or boiler.
- Recycling of the section 313 chemical through solvents/organics recovery, metals recovery, and acid regeneration or other recycling activity.

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Source reduction

The federal Pollution Prevention Act (PPA) of 1990 established a national policy to prevent or reduce pollution at its source whenever feasible. Among other requirements, the act requires facilities to report quantities of the section 313 chemicals managed as waste and any source reduction practices used with respect to that chemical during the year.

Source reduction information required by the PPA is reported in **section 8** of the Form R. Facilities report all releases and waste quantities for the section 313 chemical, both on-site and off-site. The quantities reported in sections 5 and 6 of the Form R and additional information are used to complete section 8.

Source reduction activities aimed at a chemical during the year must also be reported. The source reduction activity for a specific chemical should be reported only in the year that it is first implemented – not carried over to future years.

Form R Schedule 1 Reports

The dioxin and dioxin-like compounds category is reported in grams per year. Beginning with the 2008 reports that are due July 1, 2009, facilities are required to report the mass quantities for each reportable release or waste management activity for each of the 17 individual chemicals in this category. The information is to be submitted on a new form that is in addition to Form R report. Through RY2007, facilities reported a distribution of the chemicals included in the category that represented the distribution of the total quantity released to all media from the facility.

Form A Reports

An alternate “Form A” Certification Statement can be submitted for those chemicals that meet the eligibility requirement and threshold. The eligibility requirement for Form A is below one million pounds for an activity (manufacture or process or otherwise use). Beginning with RY2006, the threshold increased for non-PBT chemicals and for the first time PBT chemicals could be reported on the Form A with a much lower threshold. For non-PBT chemicals, the total production related waste cannot exceed 5,000 pounds with no more than 2,000 pounds in releases. For PBT chemicals, the threshold is 500 pounds of waste managed by recycling, energy recovery, and treatment with zero releases or disposal. The Form A cannot be used for reporting dioxin and dioxin-like compounds.

How to Submit Reports

Facilities must submit TRI reports to *both* the EPA and the State to comply with Section 313 reporting requirements. Facilities can file a paperless report using TRI-ME web-based application or a desktop version. Forms filed will be sent simultaneously to EPA and the State upon electronic signature and will fulfill the dual reporting requirement. Revisions and withdrawals are also submitted through TRI-ME.

- **TRI-MEweb** is the web-based application that is accessed by logging in to the EPA Central Data Exchange (CDX). The preparer and certifier must be registered at CDX (www.epa.gov/cdx) and the certifier must have an electronic signature agreement on file. *TRI-MEweb* will maintain submissions for five prior reporting years. Submissions are sent through CDX.
- **TRI-MEdesktop** application is downloaded and installed on the computer. Reports are submitted electronically through the **Internet** via the EPA CDX. The preparer must have a

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CDX account. *TRI-MEdesktop* is a predecessor of *TRI-MEweb*. EPA currently plans to offer *TRI-MEdesktop* through RY2008 and then discontinue the application.

Note: For first-time filers, there are special requirements in order to use *TRI-MEweb* or *TRI-MEdesktop*. Check with the CDX Help Desk and the State about filing.

Information on TRI-ME reporting software is found on the EPA TRI program website at www.epa.gov/tri/report/software. This site includes links for reporting forms and instructions and TRI Forms R and A. The EPA no longer mails out a reporting package as it has done in past years. The Reporting Forms and Instructions and the *TRI-MEdesktop* software are available to download.

If you still wish to file on disk or a paper report, you will need to mail separately to the EPA and the State to fulfill the dual reporting requirement. Information on where to mail reports can be found on the EPA TRI Program website (www.epa.gov/tri) and on the Michigan SARA Title III website (www.michigan.gov/deqsara).

Recordkeeping

Facilities reporting under section 313 must keep copies of their reports for three years from the date of submission. Facilities also are required to keep any documents, calculations, or material used to determine reporting obligations and waste estimates. If EPA has questions about reported data, it may request the supporting documentation. EPA may also request documentation during a TRI inspection for all section 313 chemicals, reported or not.

While the regulation requires a facility to maintain documents for three years, federal authority can take enforcement action back five years. It is recommended that a facility keep the reports and documentation for five years in the event of a TRI inspection.

Use of TRI Data

Under the Community Right-to-Know provisions of SARA Title III, TRI information must be made available to the public. The public and communities surrounding covered facilities can get information about toxic chemicals at reporting facilities, their uses, and releases into the environment. The EPA maintains the national TRI information in a database that is available to anyone through the Internet. Michigan also provides TRI data on the Internet and in published reports.

TRI data are also important to the State in other regulatory programs and for other environmental reports. TRI data can fulfill reporting requirements under the Annual Wastewater Reporting Program. The biennial "Environmental Quality Report" includes trends for TRI air and water releases. TRI data are included in an annual report to the Legislature on pollution prevention. Other DEQ reporting programs use TRI data to determine fees. There are, however, no fees associated with submittal of TRI reports to Michigan.

TRI Program Contacts and Assistance

- Michigan SARA Title III Program
Phone: 517-373-8481
Internet: www.michigan.gov/deqsara
E-mail: deq-ead-tri@michigan.gov

- EPA Region 5 TRI Program
Phone: 312-886-6219
E-mail: <mailto:codina.thelma@epa.gov>

- EPA Toxics Release Inventory Program
Internet: www.epa.gov/tri

- EPA/TRI Information Center
Phone: 800-424-9346 select option 3
TDD: 800-553-7672


Type of Question you may have	Where to find your answer
Frequent Questions about the Toxics Release Inventory (TRI) Program	TRI Question and Answer Database: tri.custhelp.com/cgi-bin/tri.cfg/php/enduser/std_alp.php
Questions about a specific facility and the data it submitted to the TRI Program in your area	Michigan SARA Title III Program (see above) or EPA Region 5 TRI Program (see above)
Technical Questions related to TRI-ME software, TRI-ME web, and the Central Data Exchange (CDX)	Email the CDX Hotline: epacdx@csc.com or Call 888-890-1995.
Questions about your electronically submitted TRI report or the status of your facility data profile.	TRI Data Processing Center: 301-429-5005 or Fax: 301-429-8036
<i>If you have already tried the support avenues listed above, but you still have unresolved TRI problems or issues.</i>	TRI general phone number: 202-566-0250 or Email tri.us@epa.gov
Information on EPA Auditing that provides incentives for regulated entities to voluntarily come into compliance with federal environmental laws and regulations.	EPA Audit Policy: www.epa.gov/compliance/incentives/auditing/

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(IMPORTANT: Type or print; read instructions before completing form)

Form Approved OMB Number: 2070-0093
Approval Expires: 03/31/2011

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 EPA United States Environmental Protection Agency	<h2 style="margin: 0;">FORM R</h2> Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986, also Known as Title III of the Superfund Amendments and Reauthorization Act	TRI Facility ID Number Toxic Chemical, Category or Generic Name
WHERE TO SEND COMPLETED FORMS: 1. TRI Data Processing Center P. O. Box 1513 Lanham, MD 20703-1513 2. APPROPRIATE STATE OFFICE (See instructions in Appendix E)		
This section only applies if you are revising or withdrawing a previously submitted form, otherwise leave blank.	Revision (enter up to two code(s)) <input style="width: 40px; height: 20px;" type="text"/> <input style="width: 40px; height: 20px;" type="text"/>	Withdrawal (enter up to two code(s)) <input style="width: 40px; height: 20px;" type="text"/> <input style="width: 40px; height: 20px;" type="text"/>
IMPORTANT: See instructions to determine when "Not Applicable (NA)" boxes should be checked.		
PART 1. FACILITY IDENTIFICATION INFORMATION		
SECTION 1. REPORTING YEAR _____		
SECTION 2. TRADE SECRET INFORMATION		
2.1	Are you claiming the toxic chemical identified on page 2 trade secret? <input type="checkbox"/> Yes (Answer question 2.2; Attach substantiation forms)	Is this copy <input type="checkbox"/> Sanitized <input type="checkbox"/> Unsanitized (Answer only if "YES" in 2.1)
2.2	<input type="checkbox"/> No (Do not answer 2.2; Go to Section 3)	
SECTION 3. CERTIFICATION (Important: Read and sign after completing all form sections.) I hereby certify that I have reviewed the attached documents and that, to the best of my knowledge and belief, the submitted information is true and complete and that the amounts and values in this report are accurate based on reasonable estimates using data available to the preparers of this report.		
Name and official title of owner/operator or senior management official:		Signature:
		Date Signed:
SECTION 4. FACILITY IDENTIFICATION		
4.1	TRI Facility ID Number	
Facility or Establishment Name		Facility or Establishment Name or Mailing Address (if different from street address)
Street		Mailing Address
City/County/State/Zip Code		Country (Non-US)
City/State/Zip Code		
4.2	This report contains information for: (Important: Check a or b; check c or d if applicable)	
a. <input type="checkbox"/> An entire facility		b. <input type="checkbox"/> Part of a facility
c. <input type="checkbox"/> A Federal facility		d. <input type="checkbox"/> GOCO
4.3	Technical Contact Name	Telephone Number (include area code)
Email Address		
4.4	Public Contact Name	Telephone Number (include area code)
Email Address		
4.5	NAICS Code (s) (6 digits)	Primary
		a. b. c. d. e. f.
4.6	Dun & Bradstreet Number (s) (9 digits)	
		a. b.
SECTION 5. PARENT COMPANY INFORMATION		
5.1	Name of Parent Company	NA <input type="checkbox"/>
5.2	Parent Company's Dun & Bradstreet Number	NA <input type="checkbox"/>

EPA Form 9350 -1 (Rev. 01/2008) - Previous editions are obsolete.