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Preparing for an EPCRA Section 313 (TRI) Audit

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A&WMA Southern Section Annual Meeting

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Introduction

- > Senior Consultant based in Atlanta
- > B.S. Mechanical Engineering from the Georgia Institute of Technology
- > 10 years of multi-media consulting experience
- > Provide multi-media permitting and regulatory compliance services to industrial clients

EPCRA Section 313 - TRI Reporting

TRI Regulatory Background

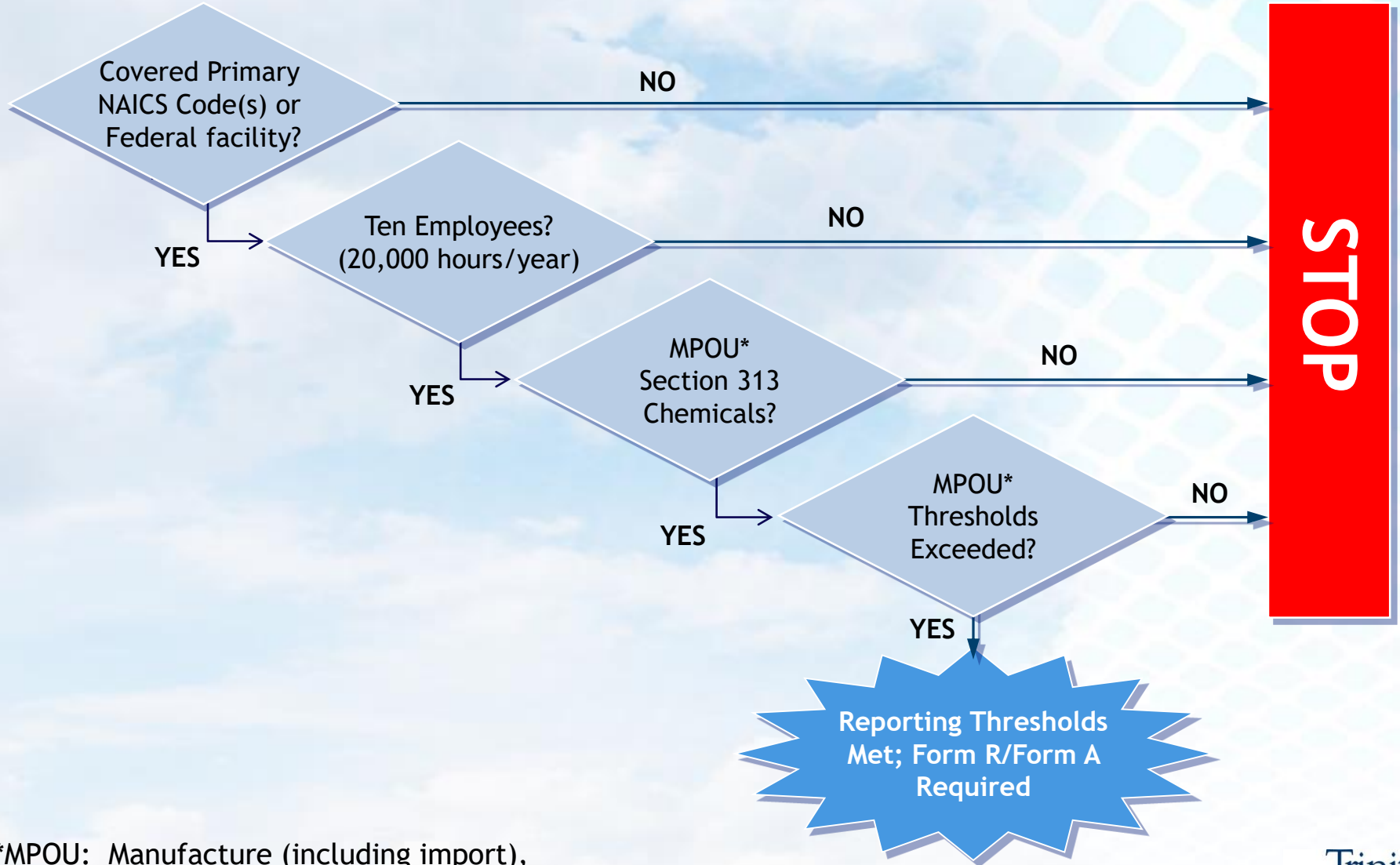
- > Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986
 - ❖ Enacted to facilitate emergency planning, to minimize the effects of potential toxic chemical accidents, and to provide the public with information on releases of toxic chemicals in their communities
- > Pollution Prevention Act (PPA) of 1990
 - ❖ Mandates collection of data on toxic chemicals that are treated, recycled, and combusted for energy recovery
- > 40 CFR 372
- > Provides information on releases and transfers of toxic chemicals

It Pays to do it Right

- > Recent EPA penalties/fines related to TRI reporting:

Filing Date	Overview of Violation	Penalty Amount
3/13/2019	For RY2014, the facility manufactured tetrachloroethylene in excess of the threshold and did not submit a TRI Report	\$20,500
3/13/2019	For RY2015-RY2016, the facility processed polycyclic aromatic compounds (PAC) and glycol ethers in quantities in excess of the thresholds and did not submit TRI reports.	\$18,000
4/18/2019	For RY2015-RY2017, the facility processed diisocyanates in excess of the threshold and did not submit a TRI report.	\$70,903

TRI Reporting Process



*MPOU: Manufacture (including import), process, or otherwise use

Covered Industry?

- > Covered North American Industry Classification (NAICS) codes or Federal Facilities

TRI-Covered Industries

- [212 Mining](#)
- [221 Utilities](#)
- [31 – 33 Manufacturing](#)
- [All Other Miscellaneous Manufacturing \(includes 1119, 1131, 2111, 4883, 5417, 8114\)](#)
- [424 Merchant Wholesalers, Non-durable Goods](#)
- [425 Wholesale Electronic Markets and Agents Brokers](#)
- [511, 512, 519 Publishing](#)
- [562 Hazardous Waste](#)
- [Federal Facilities](#)

* Note: For many of these NAICS codes, there are reporting exceptions.

Employee Threshold?

- > 10 or more full-time employee equivalents (i.e., 20,000 hours) (40 CFR §372.3 and 372.22(a))
 - ❖ Worked for the facility
 - ❖ Includes operational staff, administrative staff, contractors, dedicated sales staff, company drivers, off-site direct corporate support
 - ❖ Does NOT include contract drivers or contractors performing intermittent service functions such as janitorial services (1998 Q&A #21, #29 and #38)
 - ❖ Add all hours from part-time and full-time employees
- > Determinations based on available time management systems/data

EPCRA Section 313 Chemicals

- > Current list exceeds 690 chemicals and chemical categories
- > Full list available at 40 CFR Part 372.65
- > PBT Chemicals - special (lower) thresholds and reporting considerations
- > *Qualifiers* - certain chemicals are subject only in specified form:
 - ❖ Aluminum (fume or dust)
 - ❖ Ammonia (10% of aqueous forms; 100% of anhydrous forms)
 - ❖ Hydrochloric acid (acid aerosols including mists, vapors, gas, fog, etc.)
 - ❖ Isopropyl alcohol (manufactured by strong acid process)
 - ❖ Nitrate compounds (reportable only when in aqueous solution)

EPCRA Section 313 Chemicals

- > New TRI Chemical Category
 - ❖ Nonylphenol Ethoxylates (NPEs)
- > Required to be evaluated for RY 2019 with first forms due July 1, 2020.
- > Surfactants used in adhesives, wetting agents, emulsifiers, stabilizers, dispersants, defoamers, cleaners, paints, and coatings.

MPOU (Manufactured, Processed, or Otherwise Used)

Manufacture

- > Produce, prepare, compound, import
 1. For further on-site use/processing
 2. For sale/distribution
 3. As a byproduct
 - ◆ Coincidental manufacture; following production it is separated from process stream
 4. As an impurity
 - ◆ Coincidental manufacture; following production it is not separated but remains in the product for distribution in commerce

**Impurity=TRI chemical that still remains with the final facility product as it is distributed into commerce*

***By-product=TRI chemical that is separated out from the process mixture before it becomes the final product*

Process

- > Preparation of 313 chemical into a product for further distribution in commerce
 - ❖ **Reactant** - Used in a chemical reaction for the manufacturer of another substance
 - ❖ **Formulation component** - Added to a product as “performance enhancer” (e.g., flame retardant, dye)
 - ❖ **Article component** - Becomes an integral component of an article that is distributed in commerce (e.g., paint pigments)
 - ❖ **Repackaging** - Preparation of distribution in commerce in a different form, state, or quantity (e.g., transfer of material from bulk container to smaller containers)
 - ❖ **Impurity** - Chemical is processed but not separated and remains in the product (e.g., lead in wood products)

Otherwise Use

- > **Otherwise Use** - any use of a 313 chemical not covered by manufacture or process
 - ❖ Chemical processing aid (catalysts, solvents)
 - ❖ Manufacturing aid (coolants, lubricants)
 - ❖ Ancillary or other use (fuel, degreasers)
 - ❖ Management of waste from off site
 - ❖ 10,000 lbs
- > Thresholds are mutually exclusive
- > Include contractor chemicals used on-site

TRI Thresholds and Due Date

- > Annual report for each EPCRA Section 313 chemical exceeding an activity threshold at a subject facility
 - ❖ Manufactured, Processed, Otherwise Used
 - ◆ Persistent, Bioaccumulative, and Toxic (PBT) chemicals have lower thresholds
- > Report normally due every July 1. Due **July 1, 2019** for reporting year (RY) 2018
 - ❖ Submit Form As and/or Rs
 - ❖ Submit via TRI-MEweb

Recordkeeping and Documentation

- > Detailed records are essential!
 - ❖ Improves reporting accuracy
 - ❖ Decreases duplication of effort each year
 - ❖ Well labeled units and assumptions establish standard operating procedures for future years
 - ❖ Ensures consistency if site personnel change
- > All records used to complete Form R must be kept for three years (40 CFR 372.10)
 - ❖ Includes records for chemicals you were not required to file a TRI

EPA/Local Audit

> Audit Triggers

- ❖ Significant increase/decrease in reporting of releases
- ❖ Not submitting reports
- ❖ Complaints

EPA/Local Audit

- > Documentation Request
 - ❖ Covered Industry
 - ❖ Number of employees or total hours
 - ❖ MPOU Calculations
 - ❖ Release Calculations
- > Records required to be kept for three years, but EPA can audit the previous 5 years



Wrap-Up and Questions?

Questions

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