

## Environmental Protection Agency

## § 370.2

[CAS Number Order]

CAS No.	Chemical name	Notes	Reportable quantity * (pounds)	Threshold planning quantity (pounds)
62207-76-5	Cobalt, ((2,2'-(1,2-Ethanediybis (Nitrilomethylidyne)) Bis(6-Fluorophenolato)) (2'-N,N',O,O')-		100	100/10,000

\*Only the statutory or final RQ is shown. For more information, see 40 CFR table 302.4.

NOTES:

- a. This chemical does not meet acute toxicity criteria. Its TPQ is set at 10,000 pounds.
- b. This material is a reactive solid. The TPQ does not default to 10,000 pounds for non-powder, non-molten, non-solution form.
- c. The calculated TPQ changed after technical review as described in the technical support document.
- d. Indicates that the RQ is subject to change when the assessment of potential carcinogenicity and/or other toxicity is completed.
- e. Statutory reportable quantity for purposes of notification under SARA sect 304(a)(2).
- f. [Reserved]
- g. New chemicals added that were not part of the original list of 402 substances.
- h. Revised TPQ based on new or re-evaluated toxicity data.
- j. TPQ is revised to its calculated value and does not change due to technical review as in proposed rule.
- k. The TPQ was revised after proposal due to calculation error.
- l. Chemicals on the original list that do not meet toxicity criteria but because of their high production volume and recognized toxicity are considered chemicals of concern ("Other chemicals").

[61 FR 20484, May 7, 1996]

### PART 370—HAZARDOUS CHEMICAL REPORTING: COMMUNITY RIGHT-TO-KNOW

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AUTHORITY: Secs. 311, 312, 324, 325, 328, 329 of Pub. L. 99-499, 100 Stat. 1613, 42 U.S.C. 11011, 11012, 11024, 11025, 11028, 11029.

SOURCE: 52 FR 38364, Oct. 15, 1987, unless otherwise noted.

#### Subpart A—General Provisions

##### § 370.1 Purpose.

These regulations establish reporting requirements which provide the public

with important information on the hazardous chemicals in their communities for the purpose of enhancing community awareness of chemical hazards and facilitating development of State and local emergency response plans.

##### § 370.2 Definitions.

*Chief Executive Officer of the tribe* means the person who is recognized by the Bureau of Indian Affairs as the chief elected administrative officer of the tribe.

*Commission* means the emergency response commission for the State in which the facility is located except where the facility is located in Indian Country, in which case, *commission* means the emergency response commission for the Tribe under whose jurisdiction the facility is located. In absence of an emergency response commission, the Governor and the chief executive officer, respectively, shall be the commission. Where there is a cooperative agreement between a State and a Tribe, the commission shall be the entity identified in the agreement.

*Committee or local emergency planning committee* means the local emergency planning committee appointed by the emergency response commission.

*Environment* includes water, air, and land and the interrelationship that exists among and between water, air, and land and all living things.

*Extremely hazardous substance* means a substance listed in the appendices to

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40 CFR part 355, Emergency Planning and Notification.

*Facility* means all buildings, equipment, structure, and other stationary items that are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person). *Facility* shall include manmade structures as well as all natural structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use. For purposes of emergency release notification, the term includes motor vehicles, rolling stock, and aircraft.

*Hazard category* means any of the following:

(1) *Immediate (acute) health hazard*, including *highly toxic, toxic, irritant, sensitizer, corrosive*, (as defined under §1910.1200 of Title 29 of the Code of Federal Regulations) and other hazardous chemicals that cause an adverse effect to a target organ and which effect usually occurs rapidly as a result of short term exposure and is of short duration;

(2) *Delayed (chronic) health hazard*, including *carcinogens* (as defined under §1910.1200 of Title 29 of the Code of Federal Regulations) and other hazardous chemicals that cause an adverse effect to a target organ and which effect generally occurs as a result of long term exposure and is of long duration;

(3) *Fire hazard*, including *flammable, combustible liquid, pyrophoric, and oxidizer* (as defined under §1910.1200 of Title 29 of the Code of Federal Regulations);

(4) *Sudden release of pressure*, including *explosive* and *compressed gas* (as defined under §1910.1200 of Title 29 of the Code of Federal Regulations); and

(5) *Reactive*, including *unstable reactive, organic peroxide, and water reactive* (as defined under §1910.1200 of Title 29 of the Code of Federal Regulations).

*Hazardous chemical* means any hazardous chemical as defined under §1910.1200(c) of Title 29 of the Code of Federal Regulations, except that such term does not include the following substances:

(1) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

(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.

(3) Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public.

(4) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.

(5) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

*Indian Country* means *Indian country* as defined in 18 U.S.C. 1151. That section defines Indian country as:

(a) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(b) All dependent Indian communities within the border of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(c) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

*Indian tribe* means those tribes federally recognized by the Secretary of the Interior.

*Inventory form* means the Tier I and Tier II emergency and hazardous chemical inventory forms set forth in subpart D of this part.

*Material Safety Data Sheet* or *MSDS* means the sheet required to be developed under §1910.1200(g) of Title 29 of the Code of Federal Regulations.

*Person* means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of State, or interstate body.

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*Present in the same form and concentration as a product packaged for distribution and use by the general public* means a substance packaged in a similar manner and present in the same concentration as the substance when packaged for use by the general public, whether or not it is intended for distribution to the general public or used for the same purpose as when it is packaged for use by the general public.

*State* means any State of United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession over which the United States has jurisdiction and Indian Country.

*TPQ* means the threshold planning quantity for an extremely hazardous substance as defined in 40 CFR part 355.

[52 FR 38364, Oct. 15, 1987, as amended at 55 FR 30645, July 26, 1990]

### § 370.5 Penalties.

(a) *MSDA reporting.* Any person other than a governmental entity who violates any requirement of § 370.21 shall be liable for civil and administrative penalties of not more than \$10,000 for each violation.

(b) *Inventory reporting.* Any person other than a governmental entity who violates any requirement of § 370.25 shall be liable for civil and administrative penalties of not more than \$25,000 for each violation.

(c) *Continuing violations.* Each day a violation described in paragraph (a) or (b) of this section continues shall constitute a separate violation.

## Subpart B—Reporting Requirements

### § 370.20 Applicability.

(a) *General.* The requirements of this subpart apply to any facility that is required to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical under the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act.

(b) *Minimum threshold levels.* Except as provided in paragraph (b)(5) of this section, the minimum threshold level

for reporting under this subpart shall be as specified in paragraphs (b)(1), (b)(2), (b)(3) and (b)(4) of this section:

(1) The minimum threshold for reporting for extremely hazardous substances is 500 pounds (or 227 kgs—approximately 55 gallons) or the TPQ, whichever is lower.

(2) The minimum threshold for reporting for gasoline (all grades combined) that was in tank(s) entirely underground, at a retail gas station that was in compliance at all times during the preceding calendar year with all applicable Underground Storage Tank (UST) requirements (40 CFR part 280 or requirements of the state UST program approved by the Agency under 40 CFR part 281), is 75,000 gallons (or approximately 283,900 liters). For purposes of this part, retail gas station means a retail facility engaged in selling gasoline and/or diesel fuel principally to the public, for motor vehicle use on land.

(3) The minimum threshold for reporting for diesel fuel (all grades combined) that was in tank(s) entirely underground, at a retail gas station that was in compliance at all times during the preceding calendar year with all applicable UST requirements (40 CFR part 280 or requirements of the state UST program approved by the Agency under 40 CFR part 281), is 100,000 gallons (or approximately 378,500 liters).

(4) The minimum threshold for reporting for all other hazardous chemicals is 10,000 pounds (or 4,540 kgs.)

(5) The minimum threshold for reporting in response to requests for submission of an MSDS or a Tier II form under §§ 370.21(d) and 370.25(c) of this part shall be zero.

(c) *MSDS reporting.* The owner or operator of a facility subject to this subpart shall submit an MSDS on or before October 17, 1990 (or within three months after the facility first becomes subject to this subpart), for all hazardous chemicals present at the facility at any one time in amounts equal to or greater than their thresholds.

(d) *Inventory reporting.* The owner or operator of a facility subject to this subpart shall submit the Tier I form (or Tier II form) on or before March 1, 1991 (or March 1 of the first year after the facility first becomes subject to this subpart), and annually thereafter,