

§ 370.5

40 CFR Ch. I (7-1-06 Edition)

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,