§ 372.45 Notification about toxic chemicals.

(a) Except as provided in paragraphs (c), (d), and (e) of this section and § 372.65, a person who owns or operates a facility or establishment which:

(1) Is in SIC codes 20 through 39 or a NAICS code that corresponds to SIC codes 20 through 39 as set forth in § 372.23(b),

(2) Manufactures (including imports) or processes a toxic chemical, and

(3) Sells or otherwise distributes a mixture or trade name product containing the toxic chemical, to (i) a facility described in § 372.22, or (ii) to a person who in turn may sell or otherwise distributes such mixture or trade name product to a facility described in § 372.22(b), must notify each person to whom the mixture or trade name product is sold or otherwise distributed from the facility or establishment in accordance with paragraph (b) of this section.

(b) The notification required in paragraph (a) of this section shall be in writing and shall include:

(1) A statement that the mixture or trade name product contains a toxic chemical or chemicals subject to the reporting requirements of section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 and 40 CFR part 372.

(2) The name of each toxic chemical, and the associated Chemical Abstracts Service registry number of each chemical if applicable, as set forth in § 372.23(b).

(3) The percent by weight of each toxic chemical in the mixture or trade name product.

(c) Notification under this section shall be provided as follows:

(1) For a mixture or trade name product containing a toxic chemical listed

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in §373.65 with an effective date of January 1, 1987, the person shall provide the written notice described in paragraph (b) of this section to each recipient of the mixture or trade name product with at least the first shipment of each mixture or trade name product to each recipient in each calendar year beginning January 1, 1989.

(2) For a mixture or trade name product containing a toxic chemical listed in §372.65 with an effective date of January 1, 1989 or later, the person shall provide the written notice described in paragraph (b) of this section to each recipient of the mixture or trade name product with at least the first shipment of the mixture or trade name product to each recipient in each calendar year beginning with the applicable effective date.

(3) If a person changes a mixture or trade name product for which notification was previously provided under paragraph (b) of this section by adding a toxic chemical, removing a toxic chemical, or changing the percent by weight of a toxic chemical in the mixture or trade name product, the person shall provide each recipient of the changed mixture or trade name product a revised notification reflecting the change with the first shipment of the changed mixture or trade name product to the recipient.

(4) If a person discovers (i) that a mixture or trade name product previously sold or otherwise distributed to another person during the calendar year of the discovery contains one or more toxic chemicals and (ii), that any notification provided to such other persons in that calendar year for the mixture or trade name product either did not properly identify any of the toxic chemicals or did not accurately present the percent by weight of any of the toxic chemicals in the mixture or trade name product, the person shall provide a new notification to the recipient within 30 days of the discovery which contains the information described in paragraph (b) of this section and identifies the prior shipments of the mixture or product in that calendar year to which the new notification applies.

(5) If a Material Safety Data Sheet (MSDS) is required to be prepared and distributed for the mixture or trade name product in accordance with 29 CFR 1910.1200, the notification must be attached to or otherwise incorporated into such MSDS. When the notification is attached to the MSDS, the notice must contain clear instructions that the notifications must not be detached from the MSDS and that any copying and redistribution of the MSDS shall include copying and redistribution of the notice attached to copies of the MSDS subsequently redistributed.

(d) Notifications are not required in the following instances:

(1) If a mixture or trade name product contains no toxic chemical in excess of the applicable de minimis concentration as specified in §372.36(a).

(2) If a mixture or trade name product is one of the following:

(i) An article as defined in §372.3

(ii) Foods, drugs, cosmetics, alcoholic beverages, tobacco, or tobacco products packaged for distribution to the general public.

(iii) Any consumer product as the term is defined in the Consumer Product Safety Act (15 U.S.C. 1251 et seq.) packaged for distribution to the general public.

(e) If the person considers the specific identity of a toxic chemical in a mixture or trade name product to be a trade secret under provisions of 29 CFR 1910.1200, the notice shall contain a generic chemical name that is descriptive of that toxic chemical.

(f) If the person considers the specific percent by weight composition of a toxic chemical in the mixture or trade name product to be a trade secret under applicable State law or under the Restatement of Torts section 757, comment b, the notice must contain a statement that the chemical is present at a concentration that does not exceed a specified upper bound concentration value. For example, a mixture contains 12 percent of a toxic chemical. However, the supplier considers the specific percent by weight composition of a toxic chemical in the mixture or trade name product to be a trade secret. The notice would indicate that the toxic chemical is present in the mixture in a concentration of no more than 15 percent by weight. The upper bound value chosen must be no larger than necessary to adequately protect the trade secret.
§ 372.65  Chemicals and chemical categories to which this part applies.

Subpart D—Specific Toxic Chemical Listings

The requirements of this part apply to the following chemicals and chemical categories. This section contains three listings. Paragraph (a) of this section is an alphabetical order listing of those chemicals that have an associated Chemical Abstracts Service (CAS) Registry number. Paragraph (b) of this section contains a CAS number order list of the same chemicals listed in paragraph (a) of this section. Paragraph (c) of this section contains the chemical categories for which reporting is required. These chemical categories are listed in alphabetical order and do not have CAS numbers. Each listing identifies the effective date for reporting under §372.30.

(a) Alphabetical listing.