

CR 92-109

STATE OF WISCONSIN )  
 ) SS  
STATE EMERGENCY RESPONSE BOARD)

I, Robert M. Thompson, Chairman of the State Emergency Response Board and custodian of the official records, certify that the annexed rules, relating to facilities housing hazardous chemicals, were duly approved and adopted by the State Emergency Response Board December 11, 1992.

I further certify that this copy has been compared by me with the original on file in this State Emergency Response Board and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the State Emergency Response Board at 4802 Sheboygan Avenue, Hill Farms State Office Building, Room 99A, Madison, WI 53707



ROBERT M. THOMPSON, Chairman  
State Emergency Response Board

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2-1-93

**ORDER OF THE STATE EMERGENCY RESPONSE BOARD  
RENUMBERING, AMENDING AND RECREATING A RULE**

The Wisconsin State Emergency Response Board proposes an order to repeal and recreate SERB 1.02; to renumber, amend and recreate SERB 1.04 and SERB 1.07, relating to facilities housing hazardous chemicals.

Analysis Prepared by the State Emergency Response Board:

This rule revises the inventory fee established in s. SERB 1.04.

This rule requires owners and operators of temporary construction facilities that have hazardous chemicals or extremely hazardous chemicals present, at or above, the appropriate threshold reporting quantity during the construction operations to file with the State Emergency Response Board, the local emergency planning committee and fire departments, a site location diagram and floor plans contained within the plans and to file specifications within 10 days from the time the building permit is obtained by the person contractually responsible for obtaining the permit. The primary contractor or owner or operator of a temporary construction facility that has hazardous chemicals or extremely hazardous chemicals present, at or above the appropriate threshold reporting quantity during the construction operations and does not use formal plans and specifications or is not required to obtain a building permit, shall file contractual documents with the State Emergency Response Board, local emergency planning committee and fire departments within 10 days from the date of the contract award. These submittals shall contain a Construction Site Emergency Response and Hazardous Chemical Report Form. A primary contractor or owner or operator of a temporary construction facility may elect to submit all SARA reports and fees that are required annually by a fixed facility in lieu of plans and specifications or contractual documents and a Construction Site Emergency Response and Hazardous Chemical Report Form without obligating other operators or primary contractors of a temporary construction facility to do the same.

This rule requires owners and operators of batch plants to submit a serial number or identifying number as a means of tracking each plant. Such number must be included with each Construction Emergency Response and Hazardous Chemical Report Form. Batch plants shall submit, one time, to the State Emergency Response Board, the local emergency planning committee and fire departments within 10 days from the time a batch plant is first brought into the state and set up for actual operation, an inventory form specifying the hazardous chemicals or extremely hazardous chemicals that will be present, at or above, the appropriate threshold reporting quantity for each site. A generic site location diagram or manufacturers assembly diagram/drawing showing the relationship

of the batch plant components shall be provided with the initial SARA submittal to the State Emergency Response Board, local emergency planning committee and fire departments and shall be drawn showing a reasonable perspective and the Construction Site Emergency Response and Hazardous Chemical Report form or a copy of the operator's OSHA HazCom Chemical Inventory List. In the event a batch plant is relocated into a county or fire district that had previously received the submittal, the operator shall submit only the Batch Plant Relocation Form to the local emergency planning committee, fire departments where the batch plant is located, and the State Emergency Response Board with the State Emergency Response Board identification number. An owner or operator of a batch plant may elect to submit all SARA reports and fees that are required annually by a fixed facility in lieu of the Inventory Submittal and Relocation Update without obligating other batch plant operators to do the same.

This rule exempts facilities that have sand and/or gravel containing silica or other low hazardous substances regularly present in the sand and/or gravel on-site from paying a fee on the sand and/or gravel under s. SERB 1.07.

This rule exempts petroleum marketing facilities from paying a fee under s. SERB 1.07 pursuant to s. 166.20(1)(gm), Stats.

Pursuant to the authority vested in the State Emergency Response Board by s. 166.20(7), 166.20(1)(gm) and 227.11(2)(a), Stats., the State Emergency Response Board proposes to renumber, amend and recreate a rule interpreting s. 166.20(7) and s. 166.20(1)(gm), Stats., as follows:

SECTION 1. SERB 1.02 is repealed and recreated to read:

(1) "Batch plant" means an operating installation of equipment including batchers and mixers as required by batching and mixing concrete or asphalt materials.

(2) "Board" has the meaning given in s. 166.20(1)(a), Stats.

(3) "Contractual documents" means a written representation of the nature of the project including a site location diagram along with information similar to that found in a set of Plans and Specifications.

(4) "Facility" has the meaning given in s. 166.20(1)(c), Stats.

(5) "Hazardous chemical" has the meaning given in s. 166.20(1)(f), Stats.

(6) "Inventory fee statement" means the form prepared by the board for the purpose of collecting the fee under s. SERB 1.04 or claiming exemption of the fee under s. SERB 1.06.

(7) "Petroleum marketing facility" means a facility where petroleum products are stored for retail or resale, and received by tank vessels, tank car or tank vehicle, and are stored or

blended in bulk for the purpose of distributing such liquids by tank vessel, tank car, tank vehicle, or portable tank, and where petroleum products used as fuels are stored and dispensed from fixed equipment into vehicle fuel tanks. Retail applies to all instances of resale as defined in state law. Resale facilities also include every person engaged in the business of making sales to the general public at retail within this state.

(8) "Planning notification fee statement" means the form prepared by the board for the purpose of collecting the fee under s. SERB 1.03 or claiming exemption of the fee under s. SERB 1.06.

(9) "Plans and specifications" means a two-dimensional graphic representation of the design, location, and dimensions of the project, or parts thereof, seen in a horizontal plane viewed from above and a part of the contract documents contained in the project manual consisting of written requirements for materials, equipment, construction systems, standards, and workmanship. Under the Uniform Construction Index, the specification comprise sixteen divisions.

(10) "Site plan" means facility floor plans which indicate the storage location of hazardous chemicals as under s. SERB 1.04 (2)

SECTION 2. SERB 1.04 (3) is repealed and recreated to read:

(3) An owner or operator of a temporary construction facility that stores hazardous chemicals or extremely hazardous chemicals at or above the appropriate threshold reporting quantity during the construction operations shall submit the site location diagram and floor plans contained within the plans, and shall file the project specifications and a Construction Site Emergency Response and Hazardous Chemical Report to the State Emergency Response Board, local emergency planning committee and fire departments and the appropriate fee under sub. (6) within 10 days after the building permit is obtained.

SECTION 3. SERB 1.04 (4) to (6) are created to read:

(4) The primary contractor or owner or operator of a temporary construction facility that stores hazardous chemicals or extremely hazardous chemicals at or above the appropriate threshold quantity during the construction operations, and which does not use formal plans and specifications or is not required to obtain a building permit, shall cause to be filed contractual documents and a Construction Site Emergency Response and Hazardous Chemical Report Form with the State Emergency Response Board, local emergency planning committee and fire departments with the appropriate fee under sub. (6) within 10 days from the date of the contract award.

(5) An owner or operator of a batch plant shall submit an inventory form specifying

the hazardous chemicals that will be present at or above the appropriate threshold reporting quantity or a copy of the operator's OSHA HazCom Chemical Inventory and the Construction Site Emergency Response and Hazardous Chemical Report form within 10 days from the time a batch plant is first brought into the state and set up for actual operation. A generic site location diagram or manufacturer's assembly diagram showing the relationship of the batch plant components shall accompany the initial Superfund Amendments Reauthorization Act submittal to the State Emergency Response Board, local emergency planning committee and fire departments. If a batch plant is relocated into a county or fire district that had previously received the submittal, the owner or operator shall submit only the Batch Plant Relocation Form to the local emergency planning committee, fire departments where the batch plant is located and the State Emergency Response Board with the State Emergency Response Board identification number.

(6) Except as provided under SERB 1.07, the appropriate fee required under this section is:

(a) For facilities submitting inventory forms listing one hazardous chemical and a maximum daily amount of less than 100,000 pounds, \$150. Facilities with an actual maximum daily amount of 100,000 pounds or more, \$180.

(b) For facilities submitting inventory forms listing 2 to 10 hazardous chemicals and a cumulative actual maximum daily amount of less than 100,000 pounds, \$300. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$360.

(c) For facilities submitting inventory forms listing 11 to 100 hazardous chemicals and a cumulative actual maximum daily amount of less than 100,000 pounds, \$450. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$540.

(d) For facilities submitting inventory forms listing 101 to 200 hazardous chemicals and a cumulative actual maximum daily amount of less than 100,000 pounds, \$550. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$660.

(e) For facilities submitting inventory forms listing 201 to 300 hazardous chemicals and a cumulative actual maximum daily amount of less than 100,000 pounds, \$650. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$780.

(f) For facilities submitting inventory forms listing 301 to 400 hazardous chemicals and a cumulative actual maximum daily amount of less than 100,000 pounds, \$750. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$900.

(g) For facilities submitting inventory forms listing 401 to 500 hazardous chemicals and a cumulative actual maximum daily amount of less than 100,000 pounds, \$850. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$1020.

(h) For facilities submitting inventory forms listing over 500 hazardous chemicals and a cumulative actual maximum daily amount of less than 100,000 pounds, \$950. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$1140.

(i) For temporary construction facilities submitting plans and specifications or contractual documents and a Construction Site Emergency Response and Hazardous Chemical Report, \$20.

(j) For batch plants submitting an inventory form specifying the hazardous chemicals that will be on-site or a copy of the OSHA HazCom Chemical Inventory and the Construction Site Emergency Response and Hazardous Chemical Report form, \$20.

SECTION 4. SERB 1.07 is repealed and recreated to read:

SERB 1.07 EXEMPTIONS. A facility is not required to pay a fee under s. SERB 1.04 if a facility meets the exemption criteria in s. 166.20(7)(d), Stats. any of the following apply:

(1) The facility meets the exemption criteria in s. 166.20 (7)(d), Stats.

(2) A facility is not required to pay a fee under s. SERB 1.04 (6)(a) to (h) if it is a temporary construction facility or a batch plant reporting under s. SERB 1.04 (3) to (5) unless the facility or batch plant chooses to file as under s. SERB 1.04(1).

(3) The facility is a petroleum marketing facility pursuant to s. 166.20(1)(gm), Stats.

(4) The facility has sand, gravel or both containing silica or other low hazardous substances regularly present in the sand, gravel or both on-site. If a facility has other hazardous substances present on-site in amounts pursuant to s. 166.20, Stats., the sand, gravel or both present does not count in the fee calculation. All other s. 166.20, Stats. regulated hazardous materials shall be included in the calculation of the fee. Whether or not a fee is due, all hazardous substances regulated under s. 166.20, Stats., shall be reported.

NOTE. A copy of the inventory fee statement, Tier Two form, planning notification fee statement, and a Construction Site Emergency Response and Hazardous Chemical Report may be

obtained by contacting the State Emergency Response Board, 4802 Sheboygan Ave., Room 99A,  
P.O. Box 7865, Madison, Wisconsin, 53707-7865, telephone 608-267-7314.

This rule shall take effect upon publication.

Dated: December 11, 1992

Agency: Robert M. Thompson  
Robert M. Thompson, Chairman  
State Emergency Response Board

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**FINAL REGULATORY FLEXIBILITY ANALYSIS.** The amendments to Chapter SERB 1, Fee Rule will not have a significant impact on small businesses. The changes in the fee structure will bring about more equity for facilities reporting hazardous substances. The owners and operators of construction industries will benefit by having a clear procedure for reporting hazardous and extremely hazardous chemicals. Under this rule, the inventory reporting fee for construction sites and batch plants will be \$20. Under this rule, temporary construction sites are exempt from paying fees for sand and gravel. Under this rule, facilities which are petroleum marketing facilities are exempt from paying inventory reporting fees.

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