

## Chapter ERB 1

## FEES

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Note: Chapter SERB 1 was changed to chapter ERB 1 under s. 13.93 (2m) (b) 1, Stats., Register, September, 1994, No. 465.

**ERB 1.01 Purpose** The purpose of this chapter is to establish a fee payment structure for owners or operators of facilities housing hazardous chemicals, as required by s. 166.20 (7), Stats.

History: Cr. Register, January, 1990, No. 409, eff. 2-1-90.

**ERB 1.02 Definitions.** In this chapter:

(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. ERB 1.04 or claiming exemption of the fee under s. ERB 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. ERB 1.03 or claiming exemption of the fee under s. ERB 1.06.

(9) "Plans and specifications" means a two-dimensional graphic representation of the design, location, layout, 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 specifications comprise 16 divisions.

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

History: Cr. Register, January, 1990, No. 409, eff. 2-1-90; emerg. cr. (7) to (9) eff. 2-26-92; r. and recr. Register, January, 1993, No. 445, eff. 2-1-93; correction in (6), (8) and (10) under s. 13.93 (2m) (b) 7, Stats., Register, September, 1994.

**ERB 1.03 Emergency planning notification fee.** An owner or operator who has made an emergency planning notification required under s. 166.20 (5) (a) 1, Stats., shall submit a fee of \$800 per facility no later than 2 months after February 1, 1990. Except as provided under s. ERB 1.06, an owner or operator shall submit a fee of \$800 per facility with the emergency planning notification required under s. 166.20 (5) (a) 1, Stats. The planning notification fee statement shall be submitted one time to the board.

History: Cr. Register, January, 1990, No. 409, eff. 2-1-90; correction made under s. 13.93 (2m) (6) 7, Stats., Register, September, 1994, No. 465.

**ERB 1.04 Inventory reporting fee.** (1) An owner or operator of a facility required to submit an inventory form under s. 166.20 (5) (a) 3, Stats., shall submit a tier 2 inventory form, a site plan and the appropriate fee on or before March 1, 1990 and annually thereafter on or before March 1.

(2) An owner or operator of a facility that has submitted an inventory form pursuant to s. 166.20 (5) (a) 3, Stats., and which is no longer subject to the inventory form reporting requirements shall return any inventory fee statement received from the board with a notation stating the reason(s) why the facility is no longer subject to the inventory form reporting requirements.

(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.

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(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 s. ERB 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.

**History:** Cr. Register, January, 1990, No. 409, eff. 2-1-90; emerg. renum. (3) to be (3) and (4) and am., cr. (6), eff. 2-26-92; r. and recr. (3), cr. (4) to (6), Register, January, 1993, No. 445, eff. 2-1-93; correction in (6) (intro.) made under s. 13.93 (2m) (b) 7, Stats., Register, September, 1994, No. 465.

**ERB 1.05 Surcharge.** An owner or operator who fails to pay a fee under s. ERB 1.03 or 1.04 on or before its due date shall pay a surcharge of 20% of the unpaid balance of the fee due.

**History:** Cr. Register, January, 1990, No. 409, eff. 2-1-90; am. Register, April, 1994, No. 460, eff. 5-1-94; correction made under s. 13.93 (2m) (b) 7, Stats., Register, September, 1994, No. 465.

**ERB 1.06 Exemptions.** A facility is not required to pay a fee under s. ERB 1.03 if any of the following apply:

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

(2) A facility has submitted a planning notification fee under s. 166.20 (7) (c) 1, Stats.

**History:** Cr. Register, January, 1990, No. 409, eff. 2-1-90; correction made under s. 13.93 (2m) (b) 7, Stats., Register, September, 1994, No. 465.

**ERB 1.07 Exemptions.** A facility is not required to pay a fee under s. ERB 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. ERB 1.04 (6) (a) to (h) if it is a temporary construction facility or a batch plant reporting under s. ERB 1.04 (3) to (5) unless the facility or batch plant chooses to file as under s. ERB 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.

**History:** Cr. Register, January, 1990, No. 409, eff. 2-1-90; emerg. am., cr. (1) to (4), eff. 2-26-92; r. and recr., Register, January, 1993, No. 445, eff.

2-1-93; corrections in (2) made under s. 13.93 (2m) (b) 7, Stats., Register, September, 1994, No. 465.

**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.