

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 with hazardous chemicals present, as required by s. 166.20 (7), Stats.

History: Cr. Register, January, 1990, No. 409, eff. 2-1-90; am. Register, August, 1996, No. 488, eff. 9-1-96.

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) "Committee" has the meaning given in s. 166.20(1)(b), Stats.

(4) "Emergency planning notification fee statement" means the form prepared by the board for the purpose of collecting the fee under s. ERB 1.03, claiming the exemption from the fee under s. ERB 1.06, and providing emergency planning notification required under s. 166.20(5)(a)1, Stats.

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

(6) "Fee remittance form" means the form prepared by the board for the purpose of collecting the fee under s. ERB 1.04.

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

(8) "Inventory form fee statement" means the form prepared by the board for the purpose of collecting the fee under s. ERB 1.04 or claiming exemption from the fee under s. ERB 1.07.

(9) "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 motor 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.

(10) "Road de-icing agent" means a substance used alone or in combination with an abrasive material to supplement winter maintenance operations intended to provide adequate traction for pedestrians and vehicles properly equipped for winter driving conditions.

(11) "Site plan" means facility plans which indicate the storage location of hazardous chemicals on the site as required under s. ERB 1.04 (1).

(12) "Temporary construction facility" means a facility under construction containing more than 50,000 total cubic feet of new structure or 50,000 cubic feet of remodeled structure or additions or a transportation construction project as defined in s. 84.013(1), Stats., as well as all sites within the project limits.

Note: A public right-of-way does not separate into 2 or more facilities two or more sites within the project limits.

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; am. (3), renum. (4) to (7), (9) to (10) to be (5), (7) to (9), (10), (11), r. (8), cr. (4), (6), (12), Register, August, 1996, No. 488, eff. 9-1-96.

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 Hazardous chemical inventory reporting and inventory form 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 inventory form fee statement on or before March 1, 1990 and annually thereafter on or before March 1. The appropriate inventory form fee shall be due on or before the due date established by the board.

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

(3) The primary contractor or owner or operator of a temporary construction facility that may store hazardous chemicals at or above the appropriate threshold reporting quantity during the construction operations, shall submit a Temporary Construction Facility Emergency Response and Hazardous Chemical Report to the board, all committees with jurisdiction over the facility, and all local fire departments with jurisdiction over the facility, and shall submit the appropriate fee under sub. (7) to the board, within 15 calendar days after the building permit is obtained or the contract is awarded.

(4) An owner or operator of a batch plant shall submit an inventory list 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 Batch Plant Emergency Response and Hazardous Chemical Report with a generic site plan or manufacturer's assembly diagram showing the relationship of the batch plant components within 15 calendar days from the time the batch plant is first brought into the state and set up for actual operation to the board, all committees with jurisdiction over the facility, and all local fire departments with jurisdiction over the site.

(5) If a batch plant is relocated, the owner or operator shall submit a Batch Plant Emergency Response and Hazardous Chemical Report to the board, all committees with jurisdiction over the fa-

cility, and all fire departments with jurisdiction over the facility within 15 calendar days from the date the batch plant is relocated and set up for actual operation.

(6) The owner or operator of a batch plant that stores hazardous chemicals at or above the appropriate threshold reporting quantity, may report under sub. (1), in lieu of reporting under sub. (4).

(7) Except as provided under s. ERB 1.07, the appropriate inventory form fee required under this section is:

(a) For facilities submitting an inventory form listing one hazardous chemical subject to inventory form fee calculations 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 an inventory form listing 2 to 10 hazardous chemicals subject to inventory form fee calculations 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 an inventory form listing 11 to 100 hazardous chemicals subject to inventory form fee calculations 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 an inventory form listing 101 to 200 hazardous chemicals subject to inventory form fee calculations 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 an inventory form listing 201 to 300 hazardous chemicals subject to inventory form fee calculations 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 an inventory form listing 301 to 400 hazardous chemicals subject to inventory form fee calculations 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 an inventory form listing 401 to 500 hazardous chemicals subject to inventory form fee calculations 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 an inventory form listing over 500 hazardous chemicals subject to inventory form fee calculations 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, \$20.

(j) For batch plants, \$20.

History: Cr. Register, January, 1990, No. 409, eff. 2-1-90; emerg. renum. (3) to be (3) and (4) and am., cr. (5), 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; am. (1), (2), (3), r. (4), renum.

(5), (6) to be (4), (7) and am., cr. (5), (6), Register, August, 1996, No. 488, eff. 9-1-96.

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, emergency planning notification fee. 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, inventory form fee. A facility is not required to pay a fee under s. ERB 1.04 if 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 (7) (a) to (h) if it is a temporary construction facility or a batch plant reporting under s. ERB 1.04 (3) or (4) unless the batch plant chooses to file 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 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 hazardous substances regulated under s. 166.20, Stats., 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.

(5) The facility has calcium chloride, sodium chloride, or calcium magnesium acetate, when used as road de-icing agents. If a facility has other hazardous substances present on-site in amounts pursuant to s. 166.20, Stats., the calcium chloride, sodium chloride, or calcium magnesium acetate, when used as road de-icing agents, do not count in the fee calculation. All other hazardous substances regulated under s. 166.20, Stats., 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 form fee statement, Tier Two form, planning notification fee statement, Temporary Construction Facility Emergency Response and Hazardous Chemical Report, Batch Plant Emergency Response and Hazardous Chemical Report, Fee Remittance form, and list of local emergency planning committees may be obtained by contacting the State Emergency Response Board, 2400 Wright Street, Room 212, P.O. Box 7865, Madison, Wisconsin 53707-7865, telephone 608-242-3221.

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; am. (4), cr. (5), Register, October, 1995, No. 478, eff. 11-1-95; am. (intro.), (2), Register, August, 1996, No. 488, eff. 9-1-96.