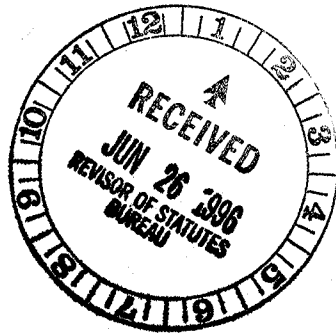


# Clearinghouse Rule 96-035

STATE OF WISCONSIN )  
 ) SS  
STATE EMERGENCY RESPONSE BOARD)

I, Steven D. Sell, Chairman of the State Emergency Response Board and custodian of the official records, certify that the annexed rules, relating to alternate reporting requirements for temporary constructions projects and batch plants were duly approved and adopted by the State Emergency Response Board on November 9, 1995.

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.



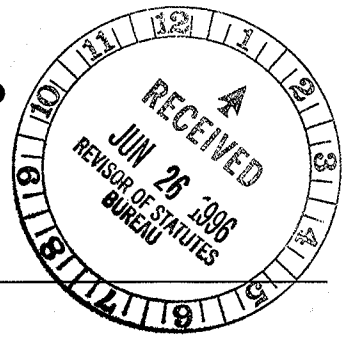
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the State Emergency Response Board at 2400 Wright Street, in the city of Madison, this 26th day of June, 1996.

*Steven D. Sell*

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Steven D. Sell,  
Chairman  
State Emergency Response Board

ORDER OF THE STATE EMERGENCY RESPONSE BOARD

To amend ERB 1



ANALYSIS PREPARED BY THE STATE EMERGENCY RESPONSE BOARD

Statutory Authority: ss. 166.20(2)(b), 166.20(7)(a), 227.11(2)(a), Stats.  
Statutes Interpreted: s. 166.20 (7)(b), Stats.

The Wisconsin State Emergency Response Board proposes an order to amend ERB 1 relating to temporary construction facility hazardous chemical inventory reporting.

Plain Language Summary

This amendment establishes alternative reporting requirements for temporary construction projects due to their unique and temporary nature. The amendment is responsive to the need to provide useful and current 24 hour emergency response information for the duration of the construction project which can be effectively utilized by local fire department personnel. The current submission of the large construction project plans and specifications would be eliminated. Reporting exemptions under s. 166.20(5)(a)3, Stats., would no longer be applicable. All temporary construction sites which meet the definition for a temporary construction facility would need to submit the report and a \$20.00 fee, unless they are exempt under s. 166.20(7)(d), Stats.

SECTION 1. ERB 1.01 is amended to read:

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

SECTION 2. ERB 1 .02 (3), (4), (5), (6). (7), (8), (9), (10), is amended to read:

~~(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. "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.

~~(4)(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.

~~(5)(7)~~ "Hazardous chemical" has the meaning given in s. 166.20 (1) (f), Stats.

~~(6)~~(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 of from the fee under s. ERB ~~1.06~~ 1.07.

~~(7)~~(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.

~~(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)~~(10) "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. "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.

~~(10)~~(11) "Site plan" means facility floor plans which indicate the storage location of hazardous chemicals on the site as required under s. ERB 1.04 ~~(2)~~(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 two or more facilities two or more sites within the project limits.

SECTION 3, ERB 1.04 (title) (1), (2), (3), (4), (5), (6), is amended to read:

ERB 1.04, (title) 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 the appropriate fee~~ 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 ~~with a notation~~ stating ~~the reason(s)~~ why the facility is no longer subject to the inventory form reporting requirements.

~~(3) An~~ The primary contractor or owner or operator of a temporary construction facility and that may stores store 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 Temporary Construction Site Facility Emergency Response and Hazardous Chemical Report to the board, all committee committees with jurisdiction over the facility, and all local fire departments with jurisdiction over the facility, and shall submit the appropriate fee under sub. ~~(6)~~ (7) to the board, within 10 15 calendar days after the building permit is obtained or the contract is awarded.

~~(4) The primary contractor or an owner or operator of a temporary construction facility, and that stores hazardous chemicals or extremely hazardous chemicals at or above the appropriate threshold reporting 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)(4) An owner or operator of a batch plant shall submit an inventory ~~form~~ 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 ~~Construction Batch Plant~~ Site Emergency Response and Hazardous Chemical Report form with a generic site location diagram plan or manufacturer's assembly diagram showing the relationship of the batch plant components within ~~10~~ 15 calendar days from the time a ~~the~~ 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 all committee committees with jurisdiction over the facility, and all local fire departments with jurisdiction over the site.~~ 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 Plan 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.~~~~

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

~~(6)(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 forms 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 forms 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~~ 100,000 pounds or more, \$360.

(c) For facilities submitting an inventory forms 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 forms 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 forms 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 forms 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 forms 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~~ 100,000 pounds or more, \$1020.

(h) For facilities submitting an inventory forms 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~~ 100,000 pounds or more, \$1140.

(i) For temporary construction facilities ~~submitting plans and specifications or contractual documents 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, ERB 1.06 (title) is amended to read;

ERB 1.06 (title) Exemptions, emergency planning notification fee.

SECTION 5, ERB 1.07 (title) (2), is amended to read:

ERB 1.07 (title) Exemptions, inventory form fee. 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:

(2) A facility is not required to pay a fee under s. ERB 1.04 ~~(6)(7)~~ (a) to (h) if it is a temporary construction facility or a batch plant reporting under s. ERB 1.04 (3) ~~to or (5)(4)~~ unless the ~~facility or~~ batch plant chooses to file as under s. ERB 1.04 (1).

**Note:** A copy of the inventory form fee statement, Tier Two form, planning notification fee statement, ~~and a Temporary Construction Site 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, 4802 Sheboygan Ave., Room 99A 2400 Wright Street, Room 212, P.O. Box 7865, Madison, Wisconsin 53707-7865, telephone 608-267-7314 242-3221.

This rule shall take effect as provided in s. 227.22(2)(intro) Stats.

Dated: June 26, 1996 Agency: \_\_\_\_\_

Steven D. Sell  
Steven D. Sell, Chairman  
State Emergency Response Board

