

Chapter ERB 3

TOXIC CHEMICAL INVENTORY REPORTS BY PRIVATE AND PUBLIC AGENCIES

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Note: Chapter SERB 3 was changed to chapter ERB 3 under s. 13.93 (2m) (b) 7, Stats., Register, September, 1994, No. 465.

ERB 3.01 Purpose. The purpose of this chapter is to define reporting requirements for submission of toxic chemical inventory reports by private agencies and public agencies as required by s. 166.20 (5) (a) 4 to 6, Stats.

History: Cr. Register, November, 1991, No. 431, eff. 12-1-91.

ERB 3.02 Definitions. In this chapter:

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

(2) "EPA" means the United States environmental protection agency

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

(4) "Full time employe" means 2,000 hours per year of full-time equivalent employment.

(5) "Import" means to cause a chemical to be imported into the customs territory of the United States. For purposes of this definition, "to cause" means to intend that the chemical be imported and to control the identity of the imported chemical and the amount to be imported.

(6) "Manufacture" means any of the following:

(a) To produce, prepare, import or compound a toxic chemical.

(b) To produce a toxic chemical coincidentally during the manufacture, processing, use, or disposal of another chemical or mixture of chemicals, including a toxic chemical that is separated from that other chemical or mixture of chemicals as a by-product, and toxic chemical that remains in that other chemical or mixture of chemicals as an impurity.

(7) "Otherwise use" or "use" means any use of a toxic chemical that is not covered by the terms "manufacture" or "process" and includes use of a toxic chemical contained in a mixture or trade name product. Relabeling or redistributing a container of a toxic chemical where no repackaging of the toxic chemical occurs does not constitute use of the toxic chemical.

(8) "Private agency" has the meaning given in s. 166.20 (1) (h), Stats.

(9) (a) "Process" means the preparation of a toxic chemical, after its manufacture, for distribution in commerce:

1. In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance, or

2. As part of an article or mixture containing the toxic chemical or trade name product.

(b) "Process" does not include the relabeling or redistribution of a container of a toxic chemical where no repackaging of the toxic chemical occurs.

(10) "Public agency" has the meaning given in s. 166.20 (1) (i), Stats.

(11) "Threshold quantity" has the meaning given in s. 166.20 (1) (j), Stats.

(12) "Toxic chemical" has the meaning given in s. 166.20 (1) (k), Stats.

History: Cr. Register, November, 1991, No. 431, eff. 12-1-91.

ERB 3.03 Toxic chemical release reporting covered facilities. A facility owned or operated by a private agency or a public agency shall submit toxic chemical release inventory reporting forms as required by s. 166.20 (5) (a) 4, Stats., if the following apply:

(1) The facility has 10 or more full-time employes.

Note: A facility shall calculate the number of full-time employes by totalling the hours worked during the calendar year by all employes, including contract employes, and dividing that total by 2,000 hours.

(2) The facility manufactured, imported, processed, or otherwise used a toxic chemical in excess of an applicable threshold quantity of that chemical as established in s. ERB 3.04.

History: Cr. Register, November, 1991, No. 431, eff. 12-1-91; correction in (2) made under s. 13.93 (2m) (b) 7, Stats., Register, September, 1994, No. 465.

ERB 3.04 Threshold amounts. The threshold amounts for the purpose of reporting under s. 166.20 (5) (a) 4, Stats., for toxic chemicals are one or both of the following:

(1) 25,000 pounds of the chemical manufactured, imported, or processed at the facility for the year

(2) 10,000 pounds of the chemical otherwise used at the facility during the year.

History: Cr. Register, November, 1991, No. 431, eff. 12-1-91.

ERB 3.05 Toxic chemical release reporting requirements and schedule for reporting. (1) For each toxic chemical known by the owner or operator to be manufactured, imported, processed or otherwise used in excess of an applicable threshold quantity under s. ERB 3.04 at its covered

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facility described under s. ERB 3.03 for a calendar year, the owner or operator shall submit to the department of natural resources, office of technical services a completed EPA Form R and shall comply with all requirements of 40 CFR Part 372 - Toxic Chemical Release Reporting; Community Right-To-Know.

(2) Each report under this section for activities involving a toxic chemical that occurred during a calendar year at a covered facility shall be submitted on or before July 1 of the next year.

Note: A copy of the EPA Form R - Toxic Chemical Inventory Reporting Form may be obtained at no charge by contacting the Department of Natural Resources, Office of Technical Services, P.O. Box 7921, 101 South Webster Street, Madison, Wisconsin 53707, telephone (608) 266-9255. Completed copies of Form R are submitted to the Department of Natural Resources, Office of Technical Services, P.O. Box 7921, 101 South Webster Street, Madison, Wisconsin 53707.

History: Cr. Register, November, 1991, No. 431, eff. 12-1-91; correction in (1) made under s. 13.93 (2m) (b) 7, Stats., Register, September, 1994, No. 465.

ERB 3.06 Exemptions. Exemptions established under 40 CFR 372.38 shall apply to this chapter with the exception of the exemption for activities in laboratories under 40 CFR 372.38 (d).

History: Cr. Register, November, 1991, No. 431, eff. 12-1-91.

ERB 3.07 Trade secrets. For the purpose of applying s. 166.20 (5) (a) 5, Stats., to public agencies and private agencies, procedures established for trade secrets claims by EPA in 40 CFR Part 350 Trade Secrecy Claims for Emergency Planning and Community Right-To-Know Information and Trade Secret Disclosures to Health Professions shall be effective. The board shall have the powers and duties granted to the administrator of the EPA under 42 USC 11042.

History: Cr. Register, November, 1991, No. 431, eff. 12-1-91.