

§ 166A-29.1. Hazardous materials facility fee.

(a) Definitions. – The following definitions apply in this section:

- (1) EPCRA. – The federal Emergency Planning and Community Right-to-Know Act, P.L. No. 99-499 et. Seq.
- (2) Extremely hazardous substance. – Any substance, regardless of its state, set forth in 40 C.F.R. Part 355, Appendix A or B.
- (3) Hazardous chemical. – As defined in 29 C.F.R. 1910.1200(c), except that the term does not include any of the following:
 - a. Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.
 - b. Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.
 - c. Any substance to the extent that it is used for personal, family, or household purposes or is present in the same form and concentration as a product packaged for distribution and use by the public.
 - d. Any substance to the extent that it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.
 - e. Any substance to the extent that it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate consumer.

(b) Annual Fee Shall Be Charged. – A person or business required under Section 302 or 312 of EPCRA to submit a notification or an annual inventory form to the Division shall be required to pay to the Department an annual fee in the amount set forth in subsection (c) of this section.

(b1) Account Created. – There is created the Hazardous Material Facility Account as a special, nonreverting account within the Department. All fees collected under this section shall be credited to the Account and shall be used to support the hazardous materials response programs established in accordance with subsection (f) of this section.

(c) Amount of Fee. – The amount of the annual fee charged pursuant to subsection (b) of this section shall be calculated in accordance with the following, up to a maximum annual amount of five thousand dollars (\$5,000) per reporting site:

- (1) A fee of fifty dollars (\$50.00) shall be assessed for each substance at each site reported by a person or business that is classified as a hazardous chemical.
- (2) A fee of ninety dollars (\$90.00) shall be assessed for each substance at each site reported by a person or business that is classified as an extremely hazardous substance.

(d) Late Fees. – The Division may impose a late fee against a person or business for failure to submit a report or filing that substantially complies with the requirements of EPCRA by the federal filing deadline or for failure to pay any fee, including a late fee. This fee shall be in addition to the fee imposed pursuant to subsection (c) of this section. Prior to imposing a late fee, the Division shall provide the person or business who will be assessed the late fee with written notice that identifies the specific requirements that have not been met and informs the person or business of its intent to assess a late fee. The assessment of a late fee shall be subject to the following limitations:

- (1) If the report filing or fee is submitted within 30 days after receipt of the Division's notice that it intends to assess a late fee, no late fee shall be assessed.

- (2) If the report filing or fee has not been submitted by the end of the period set forth in subdivision (1) of this subsection, the Division may impose a late fee in an amount equal to the amount of the fee charged pursuant to subsection (c) of this section.
- (e) Exemptions. – No fee shall be charged under this section to any of the following:
- (1) An owner or operator of a family farm enterprise, a facility owned by a State or local government, or a nonprofit corporation.
 - (2) An owner or operator of a facility where motor vehicle fuels are stored and from which such fuels are offered for retail sale. However, hazardous chemicals or extremely hazardous substances at such a facility, other than motor vehicle fuels for retail sale, shall not be subject to this exemption.
 - (3) A motor vehicle dealer, as that term is defined in G.S. 20-286(11).
- (f) Use of Fee Proceeds. – The proceeds of fees assessed pursuant to this section shall be used for the following:
- (1) To offset costs associated with the establishment and maintenance of a hazardous materials database and a hazardous materials response application.
 - (2) To offset costs associated with the operations of the regional response program for hazardous materials emergencies and terrorist incidents.
 - (3) To provide grants to counties for hazardous materials emergency response planning, training, and related exercises.
 - (4) To offset Division costs that directly support hazardous materials emergency preparedness and response. (2014-100, s. 16B.3(b); 2015-241, s. 16B.8(a); 2023-92, s. 8.)