

5.2 Types of Environmental Regulations in Wisconsin

The following list contains brief summaries of the regulations governing waste generation in Wisconsin. You should consult your state, regional, or local regulatory agency for more complete information as well as for any changes that might occur in the regulations.

Solid Waste Regulations: Wisconsin state regulation of solid waste generators states that "a person generating solid waste shall be responsible for collection and transportation of the waste to a (licensed) solid waste disposal facility unless the person contracts with a (licensed) collection and transportation service..." (*Wisconsin Environmental Law Handbook*; p. 146)

The (Wisconsin) Waste Reduction and Recycling Law also affects solid waste generators. It requires every local unit of government responsible for recycling to pass its own recycling ordinance. **Businesses** should contact their local governments for details of the specific recycling requirements in their area as they may be required to recycle certain solid wastes which they generate. **Building** (commercial, retail, industrial and governmental) and **multi-family dwelling property owners** are also responsible for recycling activities on their property. They must either (1) provide occupants with a collection system and adequate storage containers for recyclables, notify occupants how and what to recycle, and ensure that recyclables are transported to a recycling center; or (2) ensure that all trash generated (including recyclables) is collected and transported to a processing facility that separates and recycles banned items.

Additionally, many solid waste items have been banned from state landfills and licensed incinerators and thus must be managed in an alternative manner. These include: major appliances; used oil (except when burning for energy recovery); lead-acid vehicle batteries; grass clippings; leaves; sticks, brush and other lawn and garden resources (except when burning for energy recovery); office paper; newspapers; magazines; corrugated cardboard and other container board; aluminum containers; steel containers; bi-metal (steel/aluminum) containers; glass containers; plastic containers; foam polystyrene packaging; and tires (except when burning for energy recovery). Other wastes, including used refrigerants from appliances and automobiles, must first be removed from their "host materials" and then reclaimed or otherwise properly managed.

Hazardous Waste Regulations: Wisconsin's regulatory framework for hazardous waste management is substantially patterned after the federal Resource Conservation and Recovery Act (RCRA).

Generators of hazardous waste in the state are required by statute to:

- 1) conduct testing programs to determine whether any material generated by them is hazardous;
- 2) keep records that accurately identify the quantities of hazardous waste generated, the hazardous constituents of the waste, and the disposition of hazardous waste;
- 3) label any container used for the storage, transport, or disposal of hazardous waste;
- 4) use appropriate containers for hazardous waste;

- 5) furnish information on the general chemical composition of hazardous waste to persons transporting, treating, storing or disposing of hazardous wastes;
- 6) comply with rules relating to use of a manifest system;
- 7) submit all reports required under state statutes;
- 8) comply with rules relating to (waste generation) notification; and,
- 9) arrange to have all their hazardous wastes transported, treated, stored, or disposed of at licensed facilities.

The manifest and reporting requirements (nos. 6, 7, and 8 above) may not be applicable to businesses which generate "very small quantities" of hazardous waste. (See Section 5.3 for information on Generator Status). Large- and small-quantity generators, however, are required to record detailed hazardous waste-related information and report it to the DNR, which then makes the information available to the public. Additionally, the premises, vehicles, and or records of any person who generates, stores, treats, transports or disposes of hazardous waste are subject to inspection by the DNR. Both civil and criminal penalties may be imposed and citizen suits may be filed for hazardous waste compliance violations.

Mixed/Contaminated Waste Regulations: Mixed/contaminated wastes that are deemed hazardous are subject to Hazardous Waste Regulations (as outlined above). A treatment license may be necessary if mixing wastes. Mixed/contaminated wastes that are deemed non-hazardous are subject to Solid Waste Regulations (as also outlined above).

Air Emissions Regulations: Wisconsin's air pollution regulations are based on the federal Clean Air Act and the 1990 Clean Air Act Amendments. The specific requirements that apply to a particular business/facility are dependent on several factors, including (1) where the business is located (i.e., whether the business/facility is located in a "nonattainment" or an "attainment" area), (2) the kinds of pollutants the business/facility emits into the air, and (3) the amount/quantities released.

Businesses located in Wisconsin's "ozone nonattainment area," face additional regulations, requiring them to reduce the VOCs released into the air through their processes. (The nonattainment area includes the counties of Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha.) VOCs are a common cause of ozone. Lithographic printers, users of industrial adhesives, motor vehicle refinishers, companies using solvents to clean metal parts, and wood finishers are examples of affected business types.

Several federal air regulations apply to specific industry types, requiring them to reduce their use of hazardous air pollutants (HAPs). HAPs are known to cause harmful health effects to humans as well as damage to the environment. Dry cleaners, chromium electroplaters, users of halogenated solvent cleaning products, and wood furniture manufacturers currently face these air pollution regulations.

In addition to these state and federal regulations, the Wisconsin Department of Natural Resources regulates emissions from process lines, visible emission (particulate matter), internal combustion engines, and mobile sources.

Some businesses/facilities may be required to obtain construction or operating permits which include enforceable emission limitations, compliance schedules, monitoring and reporting requirements, and payment of annual fees based on emission quantities. Businesses which do not need a permit may still be subject to certain regulations, including emission limitations and reporting requirements. As with hazardous waste generators, air emission generators may be subject to inspection by the DNR, and both civil and criminal penalties may be imposed for compliance violations. (Specific reporting information pertaining to air emissions is made available to the public by the DNR.)

Wastewater Discharge Regulations: Wisconsin regulations governing wastewater discharge are based on the federal Clean Water Act and Water Quality Act. State law regulates two types of wastewater discharges: (1) a direct discharge of a pollutant from a "point source" to water; and (2) discharge to a publicly owned treatment works (POTW).

- 1) The Wisconsin Pollutant Discharge Elimination System (WPDES) program specifies that all direct wastewater discharges from a point-source to water (including natural or artificial surface water and/or groundwater) require a WPDES permit. The permit sets the limit on the amount of wastewater that the permit holder may discharge. The particular limit is based on (a) the industry type (and accordingly the available pollution control technology for that industry and the particular facility's production rate), and (b) the impact of the discharge on the quality of the receiving water. Because the WPDES program applies to groundwater discharges as well as surface waters, permits are generally required where liquid waste is discharged onto land or land spread.

The permit system relies largely on self-reporting to assure compliance, which requires the submission of a monthly discharge monitoring report (DNR) providing information on the discharge of each of the permitted pollutants. Failure to submit these reports or falsification of the reports can lead to civil or criminal prosecution. These monitoring reports are available to the public by the DNR.

- 2) Discharges to a publicly-owned treatment works (POTW) require that first a discharger notify the DNR and the POTW as to the types of pollutants to be discharged to the POTW. Second, dischargers are subject to *pretreatment standards*, which means reducing the amount of pollutants, or altering the pollutants' properties to a less harmful state, before discharging to a POTW. General pretreatment standards require industrial dischargers to do the following: (a) prevent the introduction into a POTW of pollutants that will interfere with POTW operations or sludge disposal; (b) prevent the introduction into a POTW of pollutants that will pass through untreated or interfere with treatment operations; and (c) improve opportunities for recycling and reclamation of industrial wastewaters and sludge. Industrial dischargers that fail to comply with applicable requirements could face an enforcement action brought by its municipality (i.e. POTW), the DNR, or the EPA.

Stormwater Runoff/Discharge Regulations: The federal Water Quality Act of 1987 provides the basis for Wisconsin regulations on stormwater discharge. In Wisconsin, virtually any

stormwater discharge associated with (1) "designated" industrial activities, or (2) construction sites is subject to regulation under the Wisconsin stormwater discharge permit program.

- 1) Regulatory requirements for industrial activities differ depending on industry type, with heavy manufacturers ("Tier 1 facilities") being more tightly regulated than light manufacturers and service industries ("Tier 2 facilities"). Both Tier 1 and Tier 2 facilities must apply for a stormwater permit which sets forth monitoring and reporting requirements for each of the respective industry categories. In most cases a "general" permit will be issued to the facility. In some cases, however, an "individual" permit will instead be issued, which in addition to monitoring and reporting requirements may also set forth effluent limitations for stormwater discharges.

Everyone seeking a general or individual stormwater permit must also prepare and implement a "stormwater pollution prevention plan" (SWPPP). The requirements for the plan are quite comprehensive and include, among other things: summary of major on-site activities; drainage basin map; identification of all potential stormwater contamination sources; identification of significant polluting materials, etc. The plan must also include specific pollution control measures and monitoring procedures. All permitted facilities must conduct an annual site inspection to verify that various elements described in the SWPPP remain accurate and that the pollution control and monitoring procedures are being implemented. Site inspection reports must either be submitted to the DNR or made available for DNR inspection at their request.

- 2) Landowners who will create a point source discharge of stormwater associated with construction sites of five acres or more must file a notice of intent with the DNR before commencing construction, on forms prescribed by the DNR. Each site must also have and follow an erosion control plan which addresses soil erosion and sedimentation problems from initial construction through final stabilization of the site. The plan must include, among other things, site maps, drainage patterns, areas of soil disturbance, etc. Pollution caused by stormwater discharges (e.g., from rooftops, parking lots, etc.) after construction is completed must also be addressed. The DNR may also require the submission of plans and specifications for stormwater treatment practices, or may require the submission of an individual stormwater discharge permit application if the discharge is determined to be a significant source of pollution.

Stormwater discharge permits are enforceable through civil or criminal actions by the EPA, the state regulatory agency, or by citizens. It is the responsibility of the permit applicant to assure that the proposed stormwater provisions, as set forth in their submitted plans, are appropriate.

Other (non-waste) Regulations:

Hazardous Substances: Based on the federal 1986 Emergency Planning and Community Right to Know Act (EPCRA), Wisconsin regulation requires disclosure of information and reporting obligations concerning the use and release of hazardous materials. (Note: This relates to the

normal manufacture, management, and use of hazardous substances. When such substances become wastes they are subject to hazardous waste regulations, and when they are spilled in significant quantities they are subject to hazardous remediation regulations.)

Depending on the industry type, number of employees at the facility, and the nature of the hazardous substances, specific regulatory requirements may include:

- 1) notifying state and local emergency planning committees about "extremely hazardous" substances which the facility has on-site, appointing a representative to the local emergency planning committee, and reporting releases to these and other national emergency organizations;
- 2) submitting lists or material safety data sheets (MSDSs) for chemicals which the facility has on site in excess of a specified quantity;
- 3) submitting annual inventory forms containing estimates of the maximum- and daily-average amount of chemicals present at the facility, and the locations of these chemicals at the facility; and
- 4) submitting a "Form R" release report specifying chemicals used at the facility and releases of these chemicals to the environment. In addition, emergency release notification must be made to 24-hour spill hotline at the Wisconsin Division of Emergency Government and to the DNR. Wisconsin also has an "employee right to know" provision which provides employees the right to obtain chemical lists and training with respect to chemical substances used within a facility. Any person violating any of these regulations may be subject to civil or criminal penalties.

Underground Storage Tanks (USTs): Wisconsin regulations ("ILHR 10") for underground storage tanks are guided by the federal Resource Conservation and Recovery Act (RCRA), with some notable differences. In Wisconsin, regulations apply to all underground storage tanks containing flammable and combustible liquids, which includes almost all petroleum products (fuel oil, diesel fuel, etc.). Thus, certain underground storage tanks otherwise exempt under federal law (e.g., farm and residential motor fuel tanks less than 1100 gallons, heating oil tanks, etc.) are not exempt under Wisconsin law.

The specific requirements for Wisconsin are as follows:

- 1) all tanks (new, existing, abandoned, or removed) must be registered with the Wisconsin Dept. of Commerce (Commerce), any new tank installation must first be approved by Commerce, and permits must be obtained for all USTs other than farm, residential, or heating oil tanks;
- 2) all new tanks must meet "performance standards" (i.e. technical specifications for tank and pipe design and construction), while existing tanks must be upgraded to meet the standards for new tanks or an "alternative" set of standards as determined by Commerce;
- 3) all new and existing tanks must meet general operating requirements (e.g., spill and overfill control, corrosion protection systems, tank/substance compatibility assurance, standard repairs, reporting and recordkeeping requirements, etc.);
- 4) all tanks, depending on their size and use, must meet specific "release detection

compliance options" (e.g., tank tightness testing, automatic tank gauging, vapor monitoring, etc.);

- 5) all suspected tank releases must be investigated, and if confirmed, reported to the DNR, and corrective action undertaken; and
- 6) all "temporary" tank closures must follow certain corrosion protection and release detection measures and (in some cases) vent line, cap, and pump measures, while "permanent" tank closures require notification to Commerce and a site assessment, as well as tank emptying, cleaning and removal, possibly followed by site remediation.

Property Contamination and Liability: Under the Wisconsin Spill Statute and/or the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), current owners of contaminated property/facilities may be held liable for cleanup/remediation (and other) costs even if they did not own the property/facilities when they became contaminated — by improper hazardous waste disposal, leaking underground storage tanks, accidental hazardous substance releases, etc. Additional liability provisions for underground storage tanks are covered under the federal RCRA program. Past owners may also be held liable for these costs. Environmental site assessments should be undertaken before purchasing any property which is suspected of present, or past, contamination.

Sources:

Business Waste Reduction & Recycling Portfolio, Wisconsin Department of Natural Resources, Madison, WI, PUBL-IE-171 93.

Managing Your Hazardous Wastes: A Guide for Wisconsin Small Quantity Generators (Third Edition Revised), Wisconsin Department of Natural Resources, Madison, WI, 1993, PUBL-SW-071 93REV.

Wisconsin Environmental Law Handbook (Third Edition), DeWitt Ross & Stevens, S.C., Government Institutes, Inc., Rockville, MD, 1995.