

MDEQ Issues New Wastewater Reporting Rules

The Michigan Department of Environmental Quality (MDEQ) has promulgated new rules requiring most dischargers of wastewater to file an annual report with MDEQ providing information about the discharge. The rules became effective July 28, 2000. The first reporting year subject to these new "Annual Wastewater Report" (AWR) requirements will start January 1, 2001, with the first reports due by August 1, 2002.

The new AWR program rules require "every person doing business within this state who either discharges wastewater to the waters of the state or to a sewer system" to file a wastewater report on forms to be provided by MDEQ. The AWR reporting duty applies to substances included on MDEQ's "register of critical materials" (CMR) which is included in the new rules and which lists 64 substances, including lead, mercury, chromium, silver, PCBs, benzene, xylenes and other chemicals.

AWR reports must include the following information:

- Name, location and nature of the enterprise or operation.
- An indication of whether the report claims that a chemical identity is a trade secret and/or that a process is a proprietary manufacturing process.
- An estimate of the total number of gallons of wastewater discharged to the waters of the state or any sewer system.
- Name of the waters of the state or sewer system into which wastewater is discharged.
- An estimate of the annual amount of each "critical material" used in and incidental to the manufacturing processes at the location for those critical materials that exceed the annual usage threshold. Substances used in quantities lower than the "annual usage threshold" set forth in the CMR are not required to be included in this section of the AWR report. The annual usage thresholds range from 10 lbs./year to 100 lbs./year.
- An estimate of the annual amount of each critical material discharged to the waters of the state or to any sewer system. Note that there are no thresholds for reporting quantities of each critical material discharged - the thresholds, as described above, apply only to the duty to report the amount of a critical material used.
- An estimate of the annual amount of each critical material reported as being used that was disposed of as a waste product or by-product and transferred to off-site locations.

Not all dischargers, or all types of discharge, are required to file an AWR report. For example, only "persons" "doing business in the state" that discharge "wastewater" in the state are subject to the requirements. "Persons" exclude "a municipal corporation or a governmental unit or agency, or automotive service station, laundromat, or car wash." The term "doing business in the state" is not defined.

“Wastewater” is defined to mean “liquid waste discharges resulting from industrial or commercial processes, including contact cooling and condensing waters, but excludes noncontact cooling water, sanitary sewage, and stormwater runoff that does not come into contact with process materials, products, or by-products.”

Persons are not required to report the following amounts of critical materials used in and incidental to the manufacturing process, although any discharges of such critical materials must still be reported:

- The quantity of a critical material present in a process material, provided certain conditions are met.
- The quantity of a critical material contained in a manufactured product, provided that the quantity of the critical material used in and incidental to manufacturing the product is reported.
- The quantity of a critical material present in a structural component or permanent equipment at the location.
- The quantity of a critical material present in materials used for routine janitorial work or for grounds maintenance.
- The quantity of a critical material present in products used to maintain, operate, or fuel motor vehicles operated at the location.
- The quantity of a critical material used by employees or other persons for personal use.
- The quantity of a critical material present in supplies or products used in a cafeteria, store, infirmary or other non-business activity at the location.
- The quantity of a critical material designated as a pesticide in the CMR used by a person who does not manufacture or formulate the pesticide.
- The quantity of a critical material present in a laboratory reagent in a single container that can hold 500 grams or less.
- The quantity of a critical material that is a fixed part of premanufactured assemblies or hardware obtained from another manufacturer and incorporated into the person’s product.
- In addition, the following discharges are completely exempt from the AWR reporting requirements:
 - The quantity of a critical material leaching from piping or equipment.
 - The quantity of a critical material present in intake water.

If a discharger does not use a critical material in or incidental to the manufacturing process in excess of the annual usage threshold or does not discharge critical materials other than exempted discharges, the person may file an abbreviated report on a form to be provided by MDEQ.

AWR reports must be filed annually with MDEQ not later than August 1 for the preceding calendar year. Persons doing business at more than one location are required to file a separate report for each location.

Additional information, including a copy of the rules, draft report forms and instructions, may be obtained from MDEQ's website, at deq.state.mi.us/ead/awr/.

This article was prepared by Kenneth C. Gold, a partner in our Environmental Department, and previously appeared in the November, 2000 edition of the Michigan Environmental Compliance Update, a monthly newsletter prepared by the Environmental Department and published by M. Lee Smith Publishers.