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DEPARTMENT OF NATURAL RESOURCES

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GORDON E. GUYER, Director

December 7, 1987



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RECEIVED

U.S. EPA, REGION 5
WASTE MANAGEMENT DIVISION
OFFICE OF THE DIRECTOR

Certified Mail
Returned Receipt Requested

Mr. Ronald M. Dagar, President
Roto-Finish Company, Incorporated
3700 East Milham
Kalamazoo, Michigan 49003

RE: Notice of Violation,
Proposed Consent Order
Roto-Finish Company, Inc.
EPA I.D. No. MID 005340088

Dear Mr. Dagar:

Enclosed please find a Notice of Violation and a proposed Consent Order. The Notice of Violation states the specific requirements of the Michigan Hazardous Waste Management Act, ("HWMA") 1979 PA 64, as amended, MCL 299.501 et seq.; MSA 13.30(1) et seq., and its rules, and Subtitle C of the Resource Conservation and Recovery Act ("RCRA") of 1976, as amended, 42 U.S.C. §6901 et seq., which the Department of Natural Resources ("DNR") alleges have been violated by the Roto-Finish Company, Inc. The Consent Order is proposed as a means of resolving these violations.

You are offered an opportunity to confer with the staff of the DNR regarding the Notice of Violation and proposed Consent Order on January 6, 1988 at 10:00 a.m. in conference room 5, third floor, North Ottawa Office Building, Lansing, Michigan. Any documentation of compliance with the requirements specified in the Notice should be brought to the conference.

EPA Region 5 Records Ctr.



239581


Mr. Ronald M. Dagar

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December 5, 1987

This matter has been assigned to JoAnn Merrick, Office of Environmental Enforcement. Please contact her at 517-373-3503 if you have any questions prior to the conference.

Sincerely



Alan J. Howard, Chief
Waste Management Division
517-373-2730

Attachment

cc: Mr. Mel Baevnsky, Roto-Finish Co. w/attach.
Ms. Lynn Spurr, MDNR w/attach.
Mr. Dennis Drake, MDNR w/attach.
Ms. JoAnn Merrick, MDNR w/attach.
~~Ms. Susan Sylvester, US EPA w/attach.~~
Mr. William Muno, US EPA w/attach.
Mr. Richard Karl, US EPA w/attach.

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
WASTE MANAGEMENT DIVISION

In the matter of administrative proceedings
against ROTO-FINISH COMPANY, INCORPORATED
a corporation organized under the laws of
the State of Indiana and doing business at
3700 East Milham, City of Kalamazoo,
County of Kalamazoo, Michigan 49003

EPA ID No. MID005340088

NOTICE OF VIOLATION

You are hereby notified that the Staff of the Department of Natural Resources ("DNR") has sufficient information to believe that the requirements of the Michigan Hazardous Waste Management Act ("HWMA"), 1979 PA 64, as amended, MCL 299.501 et seq.; MSA 13.30 (1) et seq., and its rules, as well as Subtitle C of the Resource Conservation and Recovery Act of 1976, ("RCRA") as amended, 42 U.S.C. §6901 et seq., and rules promulgated thereunder, have been violated.

Regulatory Background

1. Pursuant to its authority under the HWMA, the DNR has promulgated administrative rules pertinent to the identification, generation, treatment, storage, disposal, and transportation of hazardous wastes in Michigan. The most recent version of these rules can be found in the Michigan Administrative Code, 1985 AACS, R299.9101 - R299.11104.

2. The U.S. Environmental Protection Agency ("U.S. EPA") first published rules concerning the identification, generation, transportation, treatment, storage, or disposal of hazardous wastes on May 19, 1980. These rules are codified at 40 CFR Parts 260 through 265. Notification to U.S. EPA of hazardous waste activity was required in most instances no later than August 18, 1980.

3. Section 3010(a) of RCRA, 42 U.S.C. §6930(a), requires any person who generates or transports hazardous waste, or owns or operates a facility for the treatment, storage, or disposal of hazardous waste, to notify U.S. EPA of such activity within 90 days of the promulgation of rules under Section 3001 of RCRA. Section 3010 of RCRA also provides that no hazardous waste subject to the rules may be transported, treated, stored, or disposed of unless the required notification has been given.

4. On October 30, 1986, the State of Michigan was granted final authorization by the Administrator of the U.S. EPA, pursuant to Section 3006(b) of RCRA, 42 U.S.C. §6926(b), to administer a hazardous waste program in Michigan in lieu of the federal program, 40 CFR Part 271; 51 Federal Register 36804 (October 16, 1986). Section 3008 of RCRA, 42 U.S.C. §6928, provides that the U.S. EPA may enforce State rules in those States authorized to administer a hazardous waste program.

Factual Statement

5. Roto-Finish Company, Inc. ("Roto-Finish") is a person as defined by Sec. 5.(2) of the HWMMA, MCL §299.505(2), R 299.9106(g), and Section 1004(15) of RCRA, 42 U.S.C. §6903(15). Roto-Finish owns and operates a facility at 3700 East Milham Street, Kalamazoo, Michigan, that generates

hazardous waste, (the "Kalamazoo facility"). The Company is an Indiana Corporation authorized to do business in Michigan and is a subsidiary of the Ransburg Corporation.

6. On August 21, 1980, Roto-Finish filed a notification of hazardous waste activity for the Kalamazoo facility with U.S. EPA pursuant to Section 3010 of RCRA. The Company's EPA I.D. No. is MID005340088.

7. On February 17, 1987, the DNR conducted an inspection of the Kalamazoo facility. During the inspection, DNR staff discovered numerous violations of the HWMA and RCRA rules. These violations are enumerated below.

8. R 299.9306(1) states that a generator may accumulate hazardous waste on-site for 90 days or less without an operating license if all the requirements in the subrules are met. Subrule (a) specifically requires:

"(a) The waste is placed in containers and the generator complies with the provisions of 40 CFR part 265, subpart I, and the containment requirements of 40 CFR §264.175, or the waste is placed in tanks and the generator complies with the provisions of 40 CFR. part 265, subpart J, except the provisions of §265.193, and R 299.9615, except subrule (1)."

9. At the time of the February 17, 1987, inspection there was not a procedure to insure or document that the hazardous waste storage containers were inspected weekly in violation of R 299.9306(1)(a) and 40 CFR Part 265, subpart I; and containment was not provided capable of holding 10% of the volume of the containers in violation of R 299.9306(1)(a) and 40 CFR 264.175(b)(3).

10. R 299.9306(1) states that a generator may accumulate hazardous waste on-site for 90 days or less without an operating license if all of the requirements in the subrules are met. Subrule (b) requires:

"(b) The date upon which each period of accumulation begins and the hazardous waste number of the waste are clearly marked and visible for inspection on each container."

11. During the inspection on February 17, 1987, a container of hazardous waste in the process room was not clearly marked with the hazardous waste number of the waste in the container in violation of R299.9306(1)(b).

12. R 299.9306(1) states that a generator may accumulate hazardous waste on-site for 90 days or less without an operating license if all of the requirements in the subrules are met. Subrule (c) requires:

"(c) While being accumulated on-site, each container and tank is labeled with the words "Hazardous Waste"."

13. During the inspection on February 17, 1987, a container of hazardous waste in the process room was not labeled with the words "Hazardous Waste" in violation of R 299.9306(1)(c) and 40 CFR 262.34.

14. R 299.9306(1) states that a generator may accumulate hazardous waste on-site for 90 days without an operating license if all of the requirements in the subrules are met. Subrule (d) requires:

"(d) The generator complies with the requirements for owners or operators in the provisions of 40 CFR part 265, subparts C and D, and §265.16."

15. During the inspection on February 17, 1987, a contingency plan and emergency procedures were not available for review in violation of R 299.9306(1)(d) and 40 CFR 265.51 through 265.56; arrangements had not been made with local authorities to provide service in the event of an emergency in violation of R 299.9306(1)(d) and 40 CFR 265.37; and personnel training records were not available for review in violation of R 299.9306(1)(d) and 40 CFR 265.16.

16. By letter dated February 26, 1987, the Roto-Finish was notified of the violations found during the February 17, 1987 inspection with a

request that the Company respond in writing by March 26, 1987, of the actions taken to comply with the requirements.

17. A written response was not received by the DNR from Roto-Finish by March 26, 1987. Despite subsequent verbal and written notifications from DNR, Roto-Finish has not, to date, submitted a written response to the rules violations discovered during the February 17, 1987 inspection.

Conclusion

The DNR has sufficient information to believe Roto-Finish has violated the HWMA and its rules, as well as RCRA and rules promulgated thereunder. A person who violates the HWMA or RCRA or the rules promulgated under these statutes, is subject to state or federal civil and criminal sanctions. Accordingly, a failure on the part of Roto-Finish to timely and adequately respond to the violations cited herein may result in the commencement of administrative or judicial proceedings against the Company.

Alan J. Howard

Alan J. Howard, Chief
Waste Management Division
517-373-2730

Dated: Dec. 7, 1987

Donald L. Inman

Donald L. Inman, Chief
Office of Environmental Enforcement
517-373-3603

Dated: Dec. 7, 1987