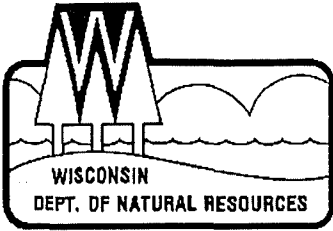


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State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Northwest District Headquarters

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Spooner, Wisconsin 54801  
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June 10, 1993

File Ref: 4190  
FID #816047210  
Case No. NWD-93-011

Mr. Ron Peterson, Yard Superintendent  
Fraser Shipyards Inc.  
Third Street and Clough Avenue  
Superior, WI 54880

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

RE: NOTICE OF VIOLATION AND REQUEST FOR  
AN ENFORCEMENT CONFERENCE

Dear Mr. Peterson:

This letter formally notifies you that the Department has reason to believe that Fraser Shipyards Inc. is in violation of Wisconsin's hazardous waste management regulations.

During a hazardous waste management inspection conducted on April 20, 1993, by Department Hazardous Waste Specialists John Morris, David Kafura, Karl Roovers, and Steve Ashenbrucker. The following apparent violations of the hazardous waste management rules were observed:

1. Section 144.63, Wis Stats., **Generation.** Any person generating solid waste shall determine if that waste is a hazardous waste. Any person generating hazardous waste shall:
  - (A) Be responsible for testing programs needed to determine whether any material generated by them is a hazardous waste for purposes of ss. 144.60 to 144.74.

Fraser Shipyard failed to test the sand blasting waste, waste tank and container contents to determine if they are hazardous waste by test methods approved by the Department, this is also a violation of s. NR 615.06, Wis. Adm. Code.

- (B) Keep records that accurately identify:
  - (1) The quantities of hazardous waste generated;
  - (2) The hazardous constituents of hazardous wastes;
  - (3) The disposition of hazardous wastes.

- (C) Label any container used for the storage, transport or disposal of hazardous waste to accurately identify its contents and associated hazards.

Fraser shipyards failed to label numerous containers of alleged hazardous waste as to their contents, also a violation of s. NR 615.09.

- (D) Comply with rules relating to use of a manifest system.

Fraser Shipyards has failed to manifest shipments of hazardous waste for off-site storage, treatment, disposal or recycling.

- (E) Comply with the rules relating to notification under s. 144.62(2), Wis. Stats.

Fraser Shipyards failed to notify the Department of its hazardous waste activity, also a violation of s. NR 600.05, Wis. Adm. Code.

Other generator violations identified during the inspection were:

Numerous waste containers and tanks were not closed as required by s. NR 615.05(4)(a)2.e. Wis. Adm. Code.

A log of container and tank inspections was not being kept as required by s. NR 615.05(4)(a)2.c and s. NR 615.05(4)(a)3.c.

Accumulation start dates were not posted on containers or tanks as required by s. NR 615.05(4)(a)4.

A contingency plan has not been developed as required by s. NR 630.22.

Personnel training and records are not being maintained as required by s. NR 630.16.

The identity and location of all stored hazardous wastes was not known by Fraser Shipyards as required by s. NR 615.05(4)(a)6.

2. Section 144.64 Wis. Stats. **Licenses. (2) TREATMENT, STORAGE OR DISPOSAL.** (am) No person may:

A. Construct a hazardous waste facility unless the person complies with s. 144.44(2) to (3).

B. Operate a hazardous waste facility without an interim or operating license issued under this subsection.

Areas where improper handling of hazardous wastes have led to unlicensed treatment of hazardous waste include the

numerous open paint and solvent containers throughout the facility and the paint waste tank, KRFT001, being kept open allowing volatilization of the waste. Unlicensed storage has been occurring at tank KRFT004, KRFT001, and at the waste grit stock piles. Apparent improper disposal has occurred through disposal of characteristic hazardous waste grit at the Superior Solid Waste Landfill, along with containers of ignitable hazardous waste.

3. Chapter NR 655, Wis. Adm. Code, specifies the requirements for the storage of hazardous waste piles.

Since Fraser Shipyards is storing hazardous waste in piles the company is required to comply with Chapter 655, Wis. Adm. Code.

4. Section 144.76(2), Wis. Stats. **Hazardous substance spills.**

(2) NOTICE OF DISCHARGE. (a) A person who possesses or controls a hazardous substance or causes the discharge of a hazardous substance shall notify the department immediately of any discharge not exempted under sub. (9).

Fraser Shipyard Inc. failed to notify the department of the hazardous substance spill occurring on January 27, 1993 when a bulldozer fell into the water releasing up to 30 gallons of diesel fuel. Numerous other spill locations were observed at the facility including paints spills by dry dock #1.

5. Section 144.69 Wis. Stats. **Inspections and right of entry.** Upon the request of any officer, employe or authorized representative of the department and with notice provided no later than upon the officer's, employe's or authorized representative's arrival, any person who generates, stores, treats, transports or disposes of hazardous waste shall permit the officer, employe or authorized representative access to vehicles, premises and records relating to hazardous wastes at reasonable times.

On April 20, 1993, Fraser Shipyard Inc. refused entry to Conservation Warden Davidowski, and Specialists Morris, Kafura, Roovers and Ashenbrucker when requested to conduct a hazardous waste inspection.

6. Section 144.64(2m), Wis. Stats., requires certain action for facilities such as yours as follows:

(2m) CLOSURE AND LONG TERM CARE PLAN FOR UNLICENSED FACILITIES. any person required to be licensed or eligible to obtain a license under sub. (2)(c) who dose not obtain a license under that subsection shall submit to the Department a closure plan and, if the facility is a disposal facility, a long term care plan for the facility which complies with

the requirements promulgated by the Department by rule under s. 144.62(8)(e) and shall comply with the plan as approved by the Department.

Since the Fraser Shipyards Inc. site was used for hazardous waste treatment and storage, your firm are required to prepare a closure plan according to the requirements in ss. NR 630, NR 655, NR 660, NR 680, and NR 685, Wis. Adm. Code.

Due to the serious and continuing nature of these violations, I have scheduled an enforcement conference for June 29, 1993, at 1:00 p.m. The conference will be held at the Department of Natural Resources District Headquarters Highway 70 west and First Street, Spooner Wi.

Please be prepared to discuss these violations and the actions you have taken or are planning to take to address the hazardous waste generator requirements. Your legal counsel and/or technical advisors are welcome to attend the conference.

Please be advised that violations of the above mentioned Wisconsin Administrative Code sections are enforceable under Chapter 144, Wisconsin Statutes. Sections 144.73 and 144.74, Wisconsin Statutes allows for forfeitures of not less than \$100 nor more than \$25,000 for each violation. Each day of continued violation is a separate offense.

If you have any questions regarding this matter or have a conflict with the meeting date and time, please call me at 715-635-4069. Please continue contacting John Morris at 715-392-4765 if you have hazardous waste management questions.

Sincerely,



Michael V. Michaelsen  
Environmental Enforcement Coordinator

cc: John Morris - Superior  
Dave Kafura - Spooner  
Marcia Johnson(H.W.files/entrack) - Spooner  
Hazardous Waste Section - SW/3  
Peter Flaherty - LC/5  
EPA Region V