

10/23/03  
rec'd



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October 21, 2003

**VIA HAND DELIVERY**

Ms. Victoria Stovall  
Wisconsin Department of Natural Resources  
2300 N. Dr. Martin Luther King Jr. Dr.  
Milwaukee, WI 53212

Re: Application for Reconsideration of Hazardous Waste Determination

Dear Ms. Stovall:

Enclosed is an Application for Reconsideration of Hazardous Waste Determination for the Praefke Brake Site, located at 133 Oak Street, West Bend, Wisconsin. Also enclosed is a check for the \$500 review fee.

Mark Drews is the Department of Natural Resources Project Manager for this site. I have already informed Mr. Drews that this request would be forthcoming. By copy of this letter, I am sending Mr. Drews a complete copy of the application, including attachments, in order to facilitate his response to this request.

Should you have any questions, please contact me at (414) 274-3904.

Very truly yours,

  
Jennifer Drury Buzecky

JDB/pmc

Enclosures

cc: Mark Drews, DNR, (w/attachments)

MKE/884376.1

Mr. Gordon Praefke (w/o attachments)  
Mr. Donald Rintelman (w/o attachments)  
Mr. Steven Humphreys (w/o attachments)

Completion of this form is voluntary. There are no penalties for failure to provide information on this form. Personally identifiable information requested on this form is likely to be used for purposes other than that for which it is originally being collected.

## REMEDIATION SITE HAZARDOUS WASTE DETERMINATIONS

Request for Redetermination

- DRAFT -

This form is intended as an aid for use by Generators and Responsible Parties in determining whether *contaminated soil or groundwater and wastes* encountered or generated during the remediation of contaminated sites in Wisconsin are or would be listed or characteristic hazardous wastes<sup>1</sup> subject to regulation under ch. 291, Wisconsin Statutes and chs. NR 600 to 690, Wisconsin Administrative Code.

Listing determinations are often particularly difficult in the remedial context because the listings are generally identified by the sources of the hazardous wastes rather than the concentrations of various hazardous constituents; therefore, analytical testing alone, without information on a waste's source, will not generally produce information that will conclusively indicate whether a given waste is a listed hazardous waste. Generators and Responsible Parties should use available site information such as material safety data sheets (MSDS's), manifests, vouchers, bills of lading, sales and inventory records, accident reports, spill reports, inspection reports, and other available information. It may also be necessary to conduct interviews of current or former personnel who would have knowledge of the processes and hazardous materials used including waste handling or past spills in an effort to ascertain the sources of wastes or contaminants, but when this information is not available or inconclusive the Generator may assume that the wastes (or contaminants) are not listed RCRA hazardous wastes.

Where a person makes a good faith effort to determine if a material is a listed hazardous waste but cannot make such a determination because documentation regarding a source of contamination, contaminant, or waste is unavailable or inconclusive, EPA has stated that one may assume the source, contaminant or waste is not listed hazardous waste and, therefore, provided the material in question does not exhibit a characteristic of hazardous waste, RCRA requirements do not apply.

Generator Information on Request for Redetermination	
Generator's Name Praefke Brake & Supply Corp.	Preparer's Name Whyte Hirschboeck Dudek S.C.
Address 133 Oak Street	Address 111 E. Wisconsin Avenue, Suite 2100
City, State and Zip Code West Bend, WI 53095	City, State and Zip Code Milwaukee, WI 53202
Telephone Number	Telephone Number (414) 273-2100

Attn: Jennifer BuzECKy

Site Information
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<sup>1</sup>Section NR 615.06, Wisconsin Administrative Code, requires any person who generates a solid waste to use the following procedure to determine if that waste is a hazardous waste:

- (1) First determine if the solid waste is excluded from regulation under s. NR 605.05.
- (2) Then determine if the solid waste is listed as a hazardous waste in s. NR 605.09.
- (3) For purposes of compliance with ch. NR 675 (Land Disposal Restrictions) or if the waste is not listed as a hazardous waste in s. NR 605.09, determine whether the waste is identified in s. NR 605.08 by either:
  - (a) Testing the waste according to the methods in s. NR 605.08; or
  - (b) Applying knowledge of the hazardous characteristic of the solid waste considering the materials or the processes used.

# GENERATOR'S HAZARDOUS WASTE DETERMINATION

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Site Name Praefke Brake and Supply Corp.	Site known by any other name(s)?
Address 133 Oak Street	County Washington
Located in the City, Town or Village and Zip Code West Bend, WI 53095	

## INFORMATION REVIEWED TO MAKE A HAZARDOUS WASTE DETERMINATION:

Listed Hazardous Waste Determination - See Appendix A attached

Manifests were reviewed	Yes / No / None Found or None Available
Vouchers were reviewed	Yes / No / None Found or None Available
Bills of lading were reviewed	Yes / No / None Found or None Available
Sales and inventory records were reviewed	Yes / No / None Found or None Available
Material safety data sheets	Yes / No / None Found or None Available
Accident reports were reviewed	Yes / No / None Found or None Available
Spill reports were reviewed	Yes / No / None Found or None Available
Inspection reports were reviewed	Yes / No / None Found or None Available
DNR's case files were reviewed	Yes / No / None Found or None Available
Interviewed several current and former employees who are likely to know about the use and/or disposal of the chemical or waste of concern (not just managers).	Yes / No / None Found or None Available
Other information considered (provide description)	Yes / No / None Found or None Available

## Characteristic Hazardous Waste Determination

Identified location(s)	Testing results

<b>Certification</b> - See Appendix A attached
I certify that the information documented above in the "Information reviewed to make a hazardous waste determination" section was developed and used as part of a good faith effort to make a hazardous waste determination. Reasonable diligence was used in collecting the information, evaluating the information, and using the compiled information. I certify that this document is true and correct to the best of my knowledge, and that I have authority to make this certification.
Name and Title
Signature and Date

Note: DNR will concur or not concur with the Generator's hazardous waste determination based on the certification and any information submitted with it. DNR may reconsider its concurrence based on new, additional or corrected information. A change in the hazardous waste determination may change waste management options.

For DNR use only:

<b>DNR Review</b>
Based on this certification and the supporting information (if any) that was submitted with it, DNR
<input checked="" type="checkbox"/> <u>concur</u>
<input type="checkbox"/> <u>does not concur</u>
with the Generator's hazardous waste determination.
Comments:
<i>Responsible party must also complete a Characteristic Hazardous Waste Determination for the soils on site before disposal as a solid waste.</i>
Signature and Date
<i>Mark Drew 11/18/03</i>

12/03/02

**APPENDIX A**  
**REQUEST FOR REDETERMINATION**

Information That Forms Basis of Hazardous Waste Determination:

February 5, 1999 letter from Whyte Hirschboeck Dudek to Sandy Miller;

March 17, 1999 letter from DNR to Whyte Hirschboeck Dudek;

March 11, 1999 letter to Scott Ferguson from Whyte Hirschboeck Dudek;

June 2, 1999 letter from Whyte Hirschboeck Dudek to Mike Zillmer;

EnviroAudit August 1994 "An Environmental Investigation Summary Report of a Historical Industrial Property Located at 133 Oak Street in West Bend, Wisconsin."

**CERTIFICATION**

I certify that, to the best of my knowledge, the information contained in the documents listed in this Appendix A was used as part of a good faith effort to make a hazardous waste determination. I certify that this Request for a Hazardous Waste Re-Determination is true and complete to the best of my knowledge, and that I have authority to make this certification.

Name and Title:

**ROBERT H. MARTIN**  
**TREASURER**

Signature and Date:

*Robert H. Martin* 10/17/03