



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 17 2003

REPLY TO THE ATTENTION OF:
DE-9J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

7001 0320 0006 0176 6250

RCRA-05- 2004 0001

CT Corporation Systems
1300 East 9th Street
Cleveland, Ohio 44114

Re: Administrative Complaint and Compliance Order
General Motors Truck Group - Moraine Assembly Plant
EPA ID No.: OHD 041 063 074

Dear Registered Agent:

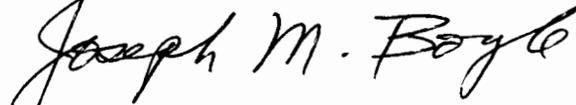
Enclosed please find an Administrative Complaint and Compliance Order (Complaint), which specifies the United States Environmental Protection Agency's (U.S. EPA's) determination of violations of the Resource Conservation and Recovery Act (RCRA) as amended, 42 U.S.C. § 6901 *et seq.*, by General Motors Truck Group - Moraine Assembly Plant. U.S. EPA based its determination on the April 17, 2001, inspection of the facility located at 2601 West Stroop, Moraine, Ohio, and the files of General Motors Truck Group and U.S. EPA. The general allegations in the Complaint state the reasons for U.S. EPA's determination.

Accompanying this Complaint is a Notice of Opportunity for Hearing. Should General Motors Truck Group desire to contest the Complaint, it must file a written request for a hearing with the Regional Hearing Clerk within thirty (30) days of the receipt of this Complaint. General Motors Truck Group must file the request for hearing with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. General Motors Truck Group must also send a copy of its request to Karen Peaceman, Office of Regional Counsel (C-14J), at the above address.

Regardless of whether General Motors Truck Group chooses to request a hearing within the prescribed time limit following the filing of this Complaint, U.S. EPA extends to General Motors Truck Group the opportunity to request an informal settlement conference. The settlement conference discussions may include the mitigation of the proposed penalty in accordance with U.S. EPA guidance on pollution prevention and supplemental environmental projects. A request for an informal settlement conference with U.S. EPA will not affect or extend the thirty (30) day deadline to file an Answer in order to avoid a Finding of Default on the Complaint.

If General Motors Truck Group has any questions or wants to request an informal settlement conference with Waste, Pesticides and Toxics Division staff, please contact Duncan Campbell, United States Environmental Protection Agency, RCRA Enforcement and Compliance Assurance Branch (DE-9J), 77 West Jackson Boulevard, Chicago, Illinois 60604. He may also be reached at (312) 886-4555.

Sincerely yours,



Joseph M Boyle, Chief
Enforcement and Compliance Assurance Branch
Waste, Pesticides and Toxics Division

Enclosure

cc: Regional Hearing Clerk, R-19J (w/enclosure)
Harry Sarvis, CAS, Ohio EPA (w/enclosure)

US ENVIRONMENTAL
PROTECTION AGENCY
REGION V

03 OCT 17 P 3:01

RECEIVED
REGIONAL HEARINGS
OCT 17 2003

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)

General Motors Automotive - North America)
300 Renaissance Center)
Detroit, Michigan 48265-3000)
U.S. EPA ID MID 005 356 902)
MID 000 718 544)
OHD 041 063 074)

Respondent)
_____)

DOCKET NO.

RCRA-05- 2004 0001

COMPLAINT AND COMPLIANCE ORDER

I. COMPLAINT

Preliminary Statement and Jurisdiction

1. This is a civil administrative action instituted under Section 3008(a) of the Solid Waste Disposal Act, as amended, also known as the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. § 6928(a). RCRA was amended in 1984 by the Hazardous and Solid Waste Amendments of 1984 (HSWA). This action is also instituted pursuant to Sections 22.1(a)(4), 22.13 and 22.37 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("Consolidated Rules"), 40 C.F.R. part 22.

2. Jurisdiction for this action is conferred upon United States Environmental Protection Agency (U.S. EPA) by Sections 3006(b), and 3008 of RCRA; 42 U.S.C. §§ 6926(b) and 6928.

U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 5

03 OCT 17 P 3:01

REGIONAL PERMITS

3. The Complainant is, by lawful delegation, the Chief of the Enforcement and Compliance Assurance Branch (ECAB), Waste, Pesticides and Toxics Division, Region 5, U.S. EPA.

4. U.S. EPA has promulgated regulations, codified at 40 C.F.R. parts 260 through 279, governing generators and transporters of hazardous waste and facilities that treat, store and dispose of hazardous waste.

5. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of U.S. EPA may authorize a State to administer the RCRA hazardous waste program in lieu of the federal program when the Administrator finds that the State program meets certain conditions. Any violation of regulations promulgated pursuant to Subtitle C (Sections 3001-3023 of RCRA, 42 U.S.C. §§ 6921-6939e) or of any state provision authorized pursuant to Section 3006 of RCRA, constitutes a violation of RCRA, subject to the assessment of civil penalties and issuance of compliance orders as provided in Section 3008 of RCRA, 42 U.S.C. § 6928.

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Michigan final authorization to administer a state hazardous waste program in lieu of the federal government's base RCRA program effective October 30, 1986. 51 Fed. Reg. 36804 (October 16, 1986). The U.S. EPA granted Michigan final authorization to administer certain HSWA and additional RCRA requirements effective January 23, 1990, 54 Fed. Reg. 48608 (November 24, 1989); June 24, 1991, 56 Fed. Reg. 18517 (April 23, 1991); November 30, 1993, 58 Fed. Reg. 51244 (October 1, 1993); April 8, 1996, 61 Fed. Reg. 4742 (February 8, 1996); December 28, 1998, 63 FR 57912 (October 29, 1998) (stayed and corrected effective June 1, 1999, 64 Fed. Reg. 10111 (March 2, 1999)); and, July 31, 2002, 67 FR 49617

(July 31, 2002) . The U.S. EPA authorized Michigan regulations are codified at Michigan Part 111 Administrative Rules 299.9101 *et seq.* See also 40 C.F.R. § 272.1151 *et seq.*

7. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the Administrator of U.S. EPA granted the State of Ohio final authorization to administer a State hazardous waste program in lieu of the federal government's RCRA program effective June 30, 1989. 54 Fed. Reg. 27170 (June 28, 1989). The U.S. EPA granted Ohio final authorization to administer certain HSWA and additional RCRA requirements effective June 7, 1991, 56 Fed. Reg. 14203 (April 8, 1991) (corrected effective August 19, 1991 (56 Fed. Reg. 28088 (June 19, 1991))); September 25, 1995, 60 Fed. Reg. 38502 (July 27, 1995); December 23, 1996, 61 Fed. Reg. 54950 (October 23, 1996); and January 24, 2003, 68 FR 3429 (January 24, 2003). The U.S. EPA authorized Ohio regulations are codified at Ohio Administrative Code (OAC) Chapters 3745-49 through 69. See also 40 C.F.R. § 272.1800 *et seq.*

8. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides U.S. EPA with the authority to enforce State regulations in those States authorized to administer a hazardous waste program.

9. U.S. EPA has provided notice of this action to the State of Michigan and the State of Ohio pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

General Allegations

10. The Respondent is General Motor Corporation's Automotive Operations North America (GMNA), which is and was at all times relevant to this Complaint a corporation incorporated under the laws of Delaware, and the owner and operator of facilities as defined by Michigan Part 111 Administrative Rule 299.9106(g) and (f) and OAC 3745-50-10(79) and (78)

and 40 C.F.R. § 260.10 located at:

Pontiac East Assembly Plant (PEA), 2100 South Opdyke Road, Pontiac, MI 48341-3155
[MID 005 356 902]

Orion Assembly Plant, 4555 Giddings Road, Lake Orion, Michigan 48359
[MID 000 718 544]

Moraine Assembly Plant, 2601 West Stroop Road, Moraine, Ohio 45439
[OHD 041 063 074]

(These facilities are collectively referred to as “the Facilities”).

11. Respondent is a "person" as defined by Michigan Part 111 Administrative Rule 299.9106(i), OAC 3745-50-10(83), Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. §260.10.

12. At all times relevant to this Complaint, Respondent generated wastes at each of the facilities which were solid wastes, as defined in Michigan Part 111 Administrative Rule 299.9202, OAC 3745-51-02, and 40 C.F.R. § 261.2.

13. Respondent has filed Notifications of Hazardous Waste Activities (“Notifications”) for the Facilities pursuant to Section 3010 of RCRA, 42 U.S.C § 6930.

14. Representatives of U.S. EPA conducted RCRA compliance evaluation inspections (CEI’s) at the Facilities as follows:

(a) on March 20, 26, and 27, 2001, U.S. EPA and the Michigan Department of Environmental Quality (MDEQ) conducted a CEI at Respondent’s PEA Plant;

(b) on April 17, 2001, U.S. EPA conducted a CEI at Respondent’s Moraine Assembly Plant;

(c) on January 28, 29, 2003 U.S. EPA and MDEQ conducted a CEI at Respondent’s Orion Assembly Plant.

15. Respondent paints vehicles at each of the Facilities. Vehicles are painted inside

paint booths. The paint booths are equipped with devices, termed “applicators,” which facilitate the application of primer, base coat or top coat (collectively termed “paint”). Respondent uses a solvent based primer at two of the Facilities and a powder coat (non-solvent) at one of the Facilities. Respondent uses a waterborne base coat at two of its Facilities and a solvent based paint at one of its Facilities. Respondent uses a solvent based clear coat at all three of the Facilities.

16. Each Facility has a “paint kitchen” where Respondent stores and/or mixes paints. The paint kitchen is connected to the paint booths by “delivery lines.”

17. Paint is delivered to the applicators in the paint booths through the delivery lines. Delivery lines consist of a series of pipes, tubing, and other equipment.

18. Respondent cleans both the applicators and the delivery lines, hereinafter referred to collectively as “painting equipment,” using a solvent referred to as “purge solvent.”

19. The purge solvent removes and dissolves the residual paint from the painting equipment.

20. Once the residual paint has been removed or dissolved from the painting equipment, the used paint-bearing purge solvent is conveyed through a series of pipes, connectors, pumps, valves, tanks, and other ancillary equipment, e.g., “purge pots.” The Respondent refers to this as a “purge recovery system.” The purge recovery system extends from the paint applicators to the hazardous waste storage tank(s) at the Facilities.

21. Each of the Facilities utilizes a purge solvent recovery system similar to the system described in paragraph 20 of this Complaint.

22. The purge recovery system constitutes ancillary equipment as defined in Michigan

Part 111 Administrative Rule 299.9101(q), OAC 3745-50-10(A)(5), and 40 C.F.R. § 260.10.

23. The purge solvent physically removes residual paint from either the paint applicators and/or delivery lines and is not used again to clean either the paint applicators or the paint delivery lines. The residual paint and purge solvent becomes a homogeneous mixture which is a spent material, and thus a solid waste. The residual paint and purge solvent is also a characteristic hazardous waste due to its ignitability. Hereinafter, this residual paint and purge solvent will be referred to as “waste purge solvent.”

24. The waste purge solvent is conveyed through the purge recovery system to the hazardous waste tanks through a series of piping, pumps, valves and connectors.

25. The primary purpose served by Respondent’s purge recovery system is to manage the waste purge solvent while it is in route to the hazardous waste storage tank(s).

26. Since the purge recovery system serves to manage the waste purge solvent generated from the cleaning of the paint applicators, it is not part of the production process.

27. Thus, all the equipment associated with the purge recovery system (e.g., purge pot(s), piping, pumps, valves, connectors) is ancillary equipment as defined in 40 C.F.R. § 260.10.

28. The ancillary equipment and the hazardous waste storage tanks are “tank systems” as defined at 40 C.F.R. § 260.10 and are subject to the hazardous waste requirements of RCRA.

29. Pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), the regulations at 40 C.F.R. part 270, Michigan Part 111 Administrative Rule 299.9502, the Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended, MCL 324.11123(1), and Ohio Revised Code (ORC) Chapter 3734.02(E)(2), the treatment, storage, or

disposal of hazardous waste by any person who does not have a permit, an operating license or interim status is prohibited.

30. Respondent is "storing" hazardous waste as defined by Michigan Part 111 Administrative Rule 299.9107(cc), OAC 3745-50-10(99) and 40 C.F.R. § 260.10 in tank systems at each of the Facilities listed from the time the hazardous waste leaves the paint applicators until such time as it is pumped out of the tank itself and shipped off-site.

31. Neither U.S. EPA nor the State of Michigan has issued an operating license or a permit to Respondent to treat, store, or dispose of hazardous waste at either of the Michigan Facilities.

32. The State of Ohio has not issued a permit to Respondent to treat, store, or dispose of hazardous waste at the Ohio Facility.

33. Respondent did not have interim status for the treatment, storage, or disposal of hazardous wastes at PEA at the time of the inspections referred to in Paragraph 14.

34. On January 29, 2003, Respondent had interim status at the Orion Assembly Plant, in Lake Orion, Michigan.

35. Respondent did not have interim status for the treatment, storage, or disposal of hazardous wastes at Moraine Assembly at the time of the inspection referred to in Paragraph 14.

36. U.S. EPA authorized the State of Michigan to administer its hazardous waste regulations in lieu of the Federal regulations, as they apply to RCRA generators, for all requirements of 40 C.F.R. part 265, subpart J, on November 24, 1989 [54 FR 48608].

37. U.S. EPA authorized the State of Ohio to administer its hazardous waste regulations in lieu of the Federal regulations, as they apply to RCRA generators, for all

requirements of 40 C.F.R. part 265, subpart J, on April 8, 1991 (56 FR 14203).

38. Pursuant to Michigan Part 111 Administrative Rule 299.9306, generators may accumulate hazardous waste on-site for 90 days or less in tanks without an operating license if they comply with the relevant provisions of 40 C.F.R. part 265, subparts J, AA, BB, and CC.

39. Pursuant to OAC 3745-50-45(C)(1) generators who accumulate hazardous waste in compliance with 40 C.F.R. § 262.34 do not have to obtain a hazardous waste permit.

40. Under OAC 3745-52-34 and 40 C.F.R. § 262.34, generators of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit or having interim status, provided that the generator complies with the applicable provisions of OAC 3745-52-34 and 40 C.F.R. § 262.34.

41. Pursuant to HSWA, effective December 6, 1996, generators could accumulate hazardous waste on-site for 90 days or less without a permit and without having interim status provided that, among other things, the waste was placed in tanks and the generators complied with, the applicable provisions of 40 C.F.R. § 262.34, including 40 C.F.R. part 265, subpart BB (§§ 265.1050-265.1064) and subpart CC (§§ 265.1080-265.1091).

42. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), requirements imposed pursuant to HSWA take effect immediately in all States.

43. U.S. EPA authorized the State of Michigan to administer its hazardous waste regulations in lieu of the Federal regulations, as they apply to RCRA generators, for all requirements of 40 C.F.R. part 265, subparts BB and CC, effective on July 31, 2002 (67 Fed. Reg. 49617) (July 31, 2002), including exemptions of 40 C.F.R. § 262.34(a)(1)(ii).

44. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), U.S. EPA had

jurisdiction to administer directly in Michigan the HSWA requirements of 40 C.F.R. part 265 subparts BB and CC prior to Michigan receiving authorization from U.S. EPA to administer those requirements.

45. U.S. EPA has not authorized the State of Ohio, under RCRA § 3006(g), to administer its hazardous waste regulations in lieu of the Federal regulations for all exemptions of 40 C.F.R. § 262.34(a)(1)(ii), including those exemptions which require compliance with the applicable requirements of 40 C.F.R. part 265, subparts BB and CC.

46. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), U.S. EPA has jurisdiction to carry out directly those portions of the HSWA requirements for which a State is not authorized. Thus, U.S. EPA has jurisdiction to administer directly in Ohio, those portions of 40 C.F.R. § 262.34(a)(1)(ii) for which the State of Ohio has not been authorized including the HSWA requirements of 40 C.F.R. part 265, subparts BB and CC.

47. Owners and operators of a facility with interim status are required to comply with the standards in Michigan Part 111 Administrative Rule 299.9601.

48. Michigan Part 111 Administrative Rule 299.9601(2) requires that owners and operators with interim status comply with Michigan Part 111 Administrative Rule 299.9615 (Tank Systems).

49. Michigan Part 111 Administrative Rule 299.9615 requires that owners and operators who use tanks to treat or store hazardous waste comply with 40 C.F.R. part 264, subpart J.

50. Respondent had interim status at its Orion facility to store hazardous waste, and therefore, it was required to comply with Michigan Part 111 Administrative Rule 299.9601(2).

51. Any facility storing hazardous waste without an operating license or interim status that fails to fully comply with the applicable provisions of Michigan Part 111 Administrative Rule 299.9306 and 40 C.F.R. § 262.34 is storing hazardous waste in violation of Section 3005 (a) of RCRA, 42 U.S.C § 6925(a), and Michigan Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended, MCL 324.11123(1).

52. Any facility storing hazardous waste without a permit or interim status that fails to fully comply with the applicable provisions of OAC 3745-52-34 and 40 C.F.R. § 262.34 is storing hazardous waste in violation of Section 3005 (a) of RCRA, 42 U.S.C § 6925(a), and Chapter 3734.02(E)(2) of the ORC.

Count 1: Storage of Hazardous Waste Without an Operating License or Interim Status by Failing to Meet the Conditions for Exemption for Generators of Hazardous Waste at PEA

53. Complainant incorporates paragraphs 1 through 52 of this Complaint as though set forth in this paragraph.

54. Pursuant to Michigan Part 111 Administrative Rule 299.9306, a generator is exempt from the requirement to have an operating license or interim status if it accumulates hazardous waste for 90 days or less in tanks and, among other things, complies with the applicable portions of 40 C.F.R. part 265, subpart J (§§ 265.190 - 265.197) and Michigan Part 111 Administrative Rule 299.9615.

55. Pursuant to Michigan Part 111 Administrative Rule 299.9108(b) and 40 C.F.R. § 260.10 tank system means a hazardous waste tank storage or treatment tank and its associated ancillary equipment and containment system.

56. Pursuant to 40 C.F.R. § 265.192(a), owners or operators of new tank systems and

components must obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with 40 C.F.R. § 270.11(d), attesting that the system has sufficient structural integrity and is acceptable for the storing of hazardous waste.

57. Pursuant to Michigan Part 111 Administrative Rule 299.9105(s) and 40 C.F.R. § 260.10 “new tank system” or “new tank component” means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986.

58. Respondent installed and/or commenced construction of a new tank system and new tank components after July 14, 1986 at the PEA Facility. The new tank system includes two hazardous waste storage tanks and ancillary equipment which includes dump lines, connectors, piping, valves, pumps, flanges, control devices, purge pots and a circulation line from the two hazardous waste storage tanks back into the building.

59. Pursuant to 40 C.F.R. § 265.192(a), owners or operators of new tank systems or components must obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with 40 C.F.R. § 270.11(d) attesting that the system has sufficient structural integrity and is acceptable for the storing of hazardous waste.

60. At the time of the inspection, Respondent could not produce a written assessment that had been reviewed and certified by an independent, qualified, registered professional engineer for the ancillary equipment inside the building.

61. Respondent’s failure to have a written assessment for the ancillary equipment

inside the building reviewed and certified by an independent, qualified, registered professional engineer constitutes a failure to meet the requirements of 40 C.F.R. § 265.192(a).

62. Pursuant to 40 C.F.R. § 265.192(d), all ancillary equipment must be tested for tightness prior to being covered or placed in use.

63. At the time of the inspection, Respondent could not demonstrate that a tightness test had been conducted for the ancillary equipment that was part of the new tank system prior to it being used.

64. Respondent's failure to have conducted the tightness test prior to using the ancillary equipment constitutes a failure to meet the requirements of 40 C.F.R. § 265.192(d).

65. Pursuant to 40 C.F.R. § 265.193(a)(1), in order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment must be provided for all new tank systems or components, prior to their being put into service.

66. Pursuant to 40 C.F.R. § 265.193(b), secondary containment must be designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system at any time during the use of the tank system; and must be capable of collecting releases and accumulating liquids until the collected material can be removed.

67. At the time of the inspection, Respondent could not demonstrate that it operated a secondary containment system underneath the ancillary equipment which was designed, installed and operated to prevent any migration of accumulated liquid out of the system and which would be capable of collecting releases and accumulating liquids until the collected material could be removed.

68. Respondent's failure to have demonstrated that the secondary containment system

underneath the ancillary equipment was designed, installed and operated so as to prevent any migration of accumulated liquid out of the system constitutes a failure to meet the requirements of 40 C.F.R. § 265.193(b).

69. Pursuant to 40 C.F.R. § 265.193(f) ancillary equipment must be provided with full secondary containment that meets the requirements of 40 C.F.R. §§ 265.193(b) except for the following pieces of equipment that are visually inspected for leaks on a daily basis: aboveground piping (exclusive of flanges, joints, valves, and connections); welded flanges, welded joints, and welded connections; sapsless or magnetic coupling pumps and sapsless valves; and pressurized aboveground piping systems with automatic shut-off devices.

70. Respondent failed to have a secondary containment system in place for the ancillary equipment prior to putting the new tank system in place which constitutes a failure to meet the requirements of 40 C.F.R. § 265.193(f).

71. Pursuant to 40 C.F.R. § 265.195(a) owners or operator must inspect, at least each operating day: overfill/spill control equipment; the aboveground portions of the tank system; the construction materials and the area immediately surrounding the externally accessible portion of the tank system including secondary containment structures to detect releases of hazardous waste.

72. At the time of the inspection, Respondent was not inspecting the aboveground portions of the tank system each operating day.

73. Respondent's failure to inspect the aboveground portions of the tank system each operating day constitutes a failure to meet the requirements of 40 C.F.R. § 265.195.

74. Pursuant to 40 C.F.R. § 265.195(c) owners and operators must document in the

operating record an inspection of overfill/spill control equipment, the aboveground portions of the tank system, the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including secondary containment structures.

75. At the time of the inspection, Respondent was not documenting the inspections of the aboveground portions of the tank system in the operating record.

76. Respondent's failure to document inspections of the aboveground portions of the tank system in the operating record constitutes a failure to meet the requirements of 40 C.F.R. § 265.195(c).

77. Respondent did not meet the requirements of 40 C.F.R. part 265, subpart J (§§ 265.190 - 265.197); therefore Respondent did not meet the conditions of Michigan Part 111 Administrative 299.9306 necessary to exempt it from the requirement to obtain an operating license or interim status for the storage (accumulation) of hazardous waste. Respondent stored hazardous waste without an operating license or interim status in violation of Section 3005(a), 42 U.S.C. § 6935(a), Michigan Natural Resource Environmental Act, 1994 Public Act 451, as amended, M.C.L. 324.11123 and Michigan Part 111 Administrative Rule 299.9502.

78. Pursuant to 40 C.F.R. §§ 262.34(a)(1)(ii) and 265.202, a generator of hazardous waste may accumulate hazardous waste on-site in tanks for 90 days or less without a permit provided that, among other things, the generator manages the hazardous waste placed in a tank in accordance with the applicable requirements 40 C.F.R. part 265, subpart BB (§§ 265.1050 - 265.1064).

79. Pursuant to 40 C.F.R. § 265.1050(c) the owner or operator shall mark each piece of equipment to which subpart BB applies in such a manner that it can be distinguished readily

from other pieces of equipment.

80. At the time of the inspection at the PEA Facility, Respondent had not marked all pieces of equipment for which subpart BB applies; specifically Respondent had not marked the purge pots, delivery line, pumps associated with the mix tanks, the lift stations, all connectors contained within the delivery lines, and any valves up until the waste enters the storage tanks.

81. Respondent's failure to mark equipment that is subject to subpart BB constitutes a violation of 40 C.F.R. § 265.1050(c).

82. Pursuant to 40 C.F.R. § 265.1064(b) owners and operators must record the following information in an operating record: equipment identification number, approximate location within the installation, type of equipment, percent-by-weight total organics, hazardous waste state at the equipment, and method of compliance with subpart BB.

83. At the time of the inspection, Respondent had not recorded the required information about pumps, valves, and flanged connections in its operating record.

84. Respondent's failure to record information about pumps, valves and flanged connections constitutes a violation of 40 C.F.R. § 265.1064(b).

85. Respondent did not meet certain requirements of 40 C.F.R. part 265, subpart BB; therefore, Respondent did not satisfy the conditions of 40 C.F.R. § 262.34(a)(1)(ii) necessary to exempt it from the requirement to obtain interim status or a permit for the storage (accumulation) of hazardous waste. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005(a) of RARA, 42 U.S.C. § 6925(a), and the regulations found at 40 C.F.R. § 270.1(c).

86. Pursuant to 40 C.F.R. §§ 262.34(a)(1)(ii) and 265.202, a generator of hazardous

may accumulate hazardous waste on-site in tanks for 90 days or less without a permit provided that, among other things, the generator manages the hazardous waste placed in a tank in accordance with the applicable requirements 40 C.F.R. part 265, subpart CC (§§ 265.1080 - 265.1090).

87. Pursuant to 40 C.F.R. § 265.1085(c)(4)(ii) owners and operators shall visually perform an initial inspection of the fixed roof and closure devices on or before the date the tank becomes subject to subpart CC.

88. Respondent's two hazardous waste storage tanks became subject to 40 C.F.R. part 265, subpart CC on December 6, 1996.

89. Respondent could not demonstrate that it had visually performed an initial inspection of the fixed roof and closure devices on the two hazardous waste storage tanks prior to December 6, 1996.

90. Pursuant to 40 C.F.R. § 265.1085(c)(4)(ii) owners and operators shall visually perform an inspection of the fixed roof and closure devices at least once each year after the date the tanks are subject to subpart CC.

91. At the time of the inspection, Respondent could not demonstrate that it had conducted the annual update inspection for 1997 as required by 40 C.F.R. § 265.1085(c)(4)(ii).

92. Respondent's failure to conduct both the initial and the annual inspection for 1997 constitutes a violation of 40 C.F.R. § 265.1085(c)(4)(ii).

93. Pursuant to 40 C.F.R. § 265.1090(b) owners and operators of a tank using air emission controls in accordance with § 265.1085 shall prepare and maintain records for the tank that include: a tank identification number; a record for each inspection; and prepare and maintain

records for each determination for the maximum organic vapor pressure.

94. At the time of the inspection, Respondent could not demonstrate that it had prepared and maintained the required records of the initial inspection required by 40 C.F.R. § 265.1085(c)(4)(ii).

95. At the time of the inspection, Respondent could not demonstrate that it had prepared and maintained the required records of the annual inspection for 1997 as required by 40 C.F.R. § 265.1085(c)(4)(ii).

96. Respondent's failure to record information gained from conducting the inspections required by 40 C.F.R. §§ 265.1085(c)(4).

97. Respondent did not meet the requirements of 40 C.F.R. part 265, subpart CC; therefore, Respondent did not satisfy the conditions of 40 C.F.R. § 262.34(a)(1)(ii) necessary to exempt it from the requirement to obtain a permit or interim status for the storage (accumulation) of hazardous waste. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005(a) of RARA, 42 U.S.C. § 6925(a), and the regulations found at 40 C.F.R. § 270.1(c).

Orion Assembly

Count 2: Failure to comply with Michigan's Interim Status requirements which require compliance with 40 C.F.R. part 264, subpart J for the tank system at Orion Assembly

98. Complainant incorporates paragraphs 1 through 97 of this Complaint as though set forth in this paragraph.

99. Pursuant to Michigan Part 111 Administrative Rule 299.9601, owners and operators of all facilities that treat, store, or dispose of hazardous waste in a tank system which

are authorized to operate and which have not been issued or reissued an operating license (i.e. those facilities with “interim status”) shall comply with Michigan Part 111 Administrative Rule 299.9615.

100. Pursuant to Michigan Part 111 Administrative Rule 299.9615 owners and operators who use tank systems to treat or store hazardous waste shall comply with all the requirements of 40 C.F.R. part 264, subpart J.

101. Respondent installed and/or commenced construction of a hazardous waste tank system and tank components before July 14, 1986 at the Orion Facility. The hazardous waste tank system includes one hazardous waste storage tank and the purge recovery system which is ancillary equipment as defined by Michigan Part 111 Administrative Rule 299.9101(q) and 40 C.F.R. § 260.10.

102. The purge recovery system includes dump lines, connectors, piping, valves, pumps, flanges, control devices, purge pots and a circulation line from the hazardous waste storage tank back into the building.

103. Pursuant to Michigan Part 111 Administrative Rule 299.9103(m) “existing tank system” or “existing component” means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or before July 14, 1986.

104. Pursuant to 40 C.F.R. § 264.191, owners or operators of existing tank systems or components must obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with 40 C.F.R. § 270.11(d) attesting that the system has sufficient structural integrity and is acceptable for the storing of hazardous

waste.

105. At the time of the inspection, Respondent could not produce a written assessment that had been reviewed and certified by an independent, qualified, registered professional engineer for the ancillary equipment.

106. Respondent's failure to have a written assessment for the ancillary equipment reviewed and certified by an independent, qualified, registered professional engineer constitutes a violation of Michigan Part 111 Administrative Rule 299.9601.

107. Pursuant to 40 C.F.R. § 264.191(d), all ancillary equipment must be tested for tightness prior to being covered or placed in use.

108. At the time of the inspection, Respondent could not demonstrate that a tightness test had been conducted prior to using the ancillary equipment.

109. Respondent's failure to have conducted the tightness test prior to using the tank system constitutes a violation of Michigan Part 111 Administrative Rule 299.9601.

110. Pursuant to 40 C.F.R. § 264.193(a)(1), in order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment must be provided for all new tank systems or components, prior to their being put into service.

111. Pursuant to 40 C.F.R. § 264.193(b), secondary containment must be designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system at any time during the use of the tank system; and must be capable of collecting releases and accumulating liquids until the collected material can be removed.

112. At the time of the inspection, Respondent could not demonstrate that it operated a secondary containment system for the ancillary equipment which would prevent any migration of

accumulated liquid out of the system and would be capable of collecting releases and accumulating liquids until the collected material could be removed.

113. Respondent's failure to demonstrate that the secondary containment system was designed to prevent the migration of any accumulated liquid out of the tank system while it was in use constitutes a violation of Michigan Part 111 Administrative Rule 299.9601.

114. Pursuant to 40 C.F.R. § 264.193(f) ancillary equipment must be provided with full secondary containment that meets the requirements of 40 C.F.R. §§ 264.193(b) except for the following pieces of equipment that are visually inspected for leaks on a daily basis: aboveground piping (exclusive of flanges, joints, valves, and connections); welded flanges, welded joints, and welded connections; sapless or magnetic coupling pumps and sapless valves; and pressurized aboveground piping systems with automatic shut-off devices.

115. Respondent failed to have a secondary containment system in place for the ancillary equipment prior to putting the new tank system in place which constitutes a violation of Michigan Part 111 Administrative Rule 299.9601.

116. Pursuant to 40 C.F.R. § 264.195(a) owners or operator must inspect, at least each operating day: overfill/spill control equipment; the aboveground portions of the tank system; the construction materials and the area immediately surrounding the externally accessible portion of the tank system including secondary containment structures to detect releases of hazardous waste.

117. At the time of the inspection, Respondent was not inspecting the aboveground portions of the tank system each operating day.

118. Respondent's failure to inspect the aboveground portions of the tank system each

operating day constitutes a violation of Michigan Part 111 Administrative Rule 299.9601.

119. Pursuant to 40 C.F.R. § 264.195(d) owners and operators must document in the operating record each inspection of overfill/spill control equipment, the aboveground portions of the tank system, the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including secondary containment structures.

120. At the time of the inspection, Respondent was not documenting in the operating record each inspection of the aboveground portions of the tank system.

121. Respondent's failure to document inspections in the operating record constitutes a violation of Michigan Part 111 Administrative Rule 299.9601.

Count 3: Failure to comply with Michigan's Interim Status requirements which require compliance with 40 C.F.R. part 264, subpart BB at Orion Assembly

122. Complainant incorporates paragraphs 1 through 121 of this Complaint as though set forth in this paragraph.

123. Pursuant to Michigan Part 111 Administrative Rule 299.9601, owners and operators of all facilities that treat, store, or dispose of hazardous waste in a tank system which are authorized to operate and which have not been issued or reissued an operating license (i.e. those facilities with "interim status") shall comply with Michigan Part 111 Administrative Rule 299.9615.

124. Pursuant to Michigan Part 111 Administrative Rule 299.9615 owners and operators who use tank systems to treat or store hazardous waste shall comply with all the requirements of 40 C.F.R. part 264, subpart J.

125. Pursuant to 40 C.F.R. subpart J (40 C.F.R. § 264.200), owners and operators of

treatment, storage or disposal facilities shall comply with the provisions in subpart BB (§§ 264.1050 - 264.1090) of 40 C.F.R. part 264.

126. Pursuant to 40 C.F.R. § 264.1050(d) the owner or operator shall mark each piece of equipment to which subpart BB applies in such a manner that it can be distinguished readily from other pieces of equipment.

127. At the time of the inspection at the Orion facility, Respondent had not marked all pieces of equipment for which subpart BB applies; specifically Respondent had not marked the purge pots, delivery line, pumps associated with the mix tanks, the lift stations, all connectors contained within the delivery lines, and any valves up until the waste enters the storage tanks.

128. Respondent's failure to mark equipment that is subject to subpart BB constitutes a violation of Michigan Part 111 Administrative Rule 299.9601.

129. Pursuant to 40 C.F.R. § 264.1052(a)(1) each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in 40 C.F.R. § 264.1063(b).

130. At the time of the inspection at the Orion facility, the Respondent was not monitoring pumps in light liquid service on a monthly basis.

131. Respondent's failure to monitor pumps in light liquid service on a monthly basis constitutes a violation of Michigan Part 111 Administrative Rule 299.9601.

132. Pursuant to 40 C.F.R. § 264.1052(a)(2) each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.

133. At the time of the inspection at the Orion facility, the Respondent was not visually inspecting pumps in light liquid service each calendar week for indications of liquids dripping

from the pump seal.

134. Respondent's failure to visually inspect the pumps in light liquid service each calendar week constitutes a violation of Michigan Part 111 Administrative Rule 299.9601.

135. Pursuant to 40 C.F.R. § 264.1057, each valve in light liquid service shall be monitored monthly to detect leaks by the method specified in 40 C.F.R. § 264.1063(b).

136. At the time of the inspection at the Orion facility, the Respondent was not monitoring each valve in light liquid basis on a monthly basis.

137. Respondent's failure to monitor each valve in light liquid service on a monthly basis constitutes a violation of Michigan Part 111 Administrative Rule 299.9601.

138. Pursuant to 40 C.F.R. § 264.1064(b) owners and operators must record the following information in an operating record: equipment identification number, approximate location within the installation, type of equipment, percent-by-weight total organics, hazardous waste state at the equipment, and method of compliance with subpart BB.

139. At the time of the inspection, Respondent had not recorded the required information about pumps, valves, and flanged connections in its operating record.

140. Respondent's failure to record information about pumps, valves and flanged connections constitutes a violation of Michigan Part 111 Administrative Rule 299.9601.

Count 4: Storage of Hazardous Waste Without a Permit or Interim Status by Failing to Meet the Conditions for Exemption for Generators of Hazardous Waste at Moraine Assembly

141. Complainant incorporates paragraphs 1 through 140 of this Complaint as though set forth in this paragraph.

142. Pursuant to OAC 3745-52-34, a generator may, without a permit or interim status, accumulate hazardous waste in a tank for 90 days or less provided the generator, among other things, complies with OAC 3745-66-90 to 3745-66-96.

143. Pursuant to OAC 3745-50-10(A)(103) and 40 C.F.R. § 260.10 tank system means a hazardous waste tank storage or treatment tank and its associated ancillary equipment and containment system.

144. Pursuant to OAC 3745-55-92(A) owners or operators of new tank systems and components must obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with OAC 3745-50-42(D) attesting that the system has sufficient structural integrity and is acceptable for the storing of hazardous waste.

145. Pursuant to OAC 3745-50-10(A)(71) “new tank system” or “new tank component” means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986; except, however, for purposes of paragraph (G)(2) of rule 3745-55-93 and paragraph (G)(2) of rule 3745-66-93 of the Administrative Code, a new tank system is one for which construction commenced after July 14, 1986.

146. Respondent installed and/or commenced construction of a new tank system and

new tank components after July 14, 1986. The new tank system includes: one hazardous waste storage tank, and ancillary equipment which includes: connectors, piping, valves, pumps, flanges, and control devices.

147. Pursuant to OAC 3745-66-92(A), owners or operators of new tank systems or components must obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with OAC 3745-50-42(D) attesting that the system has sufficient structural integrity and is acceptable for the storing of hazardous waste.

148. At the time of the inspection Respondent could not produce a written assessment that had been reviewed and certified by an independent, qualified, registered professional engineer for the ancillary equipment.

149. Respondent's failure to have a written assessment for the ancillary equipment for the new tank system that was reviewed and certified by an independent, qualified, registered professional engineer constitutes a violation of OAC 3745-66-92(A).

150. Pursuant to OAC 3745-66-92(D) all ancillary equipment must be tested for tightness prior to being covered or placed in use.

151. At the time of the inspection, Respondent could not demonstrate that a tightness test had been conducted for the ancillary equipment that was part of the new tank system prior to it being used.

152. Respondent's failure to have conducted a tightness test prior to using the tank system constitutes a violation of OAC 3745-66-92(D).

153. Pursuant to OAC 3745-66-93(A)(1), an owner or operator must provide secondary containment that meets the requirements of OAC 3745-66-93(B) for all new tank systems, prior

to their being put into service.

154. Pursuant to OAC 3745-66-93(B), secondary containment must be designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system at any time during the use of the tank system; and capable of collecting releases and accumulating liquids until the collected material can be removed.

155. At the time of the inspection, Respondent could not demonstrate that it operated a secondary containment system for the ancillary equipment which would prevent any migration of accumulated liquid out of the system and would be capable of collecting releases and accumulating liquids until the collected material could be removed which constitutes a violation of OAC 3745-66-93(B).

156. OAC 3745-66-93(C) provides that to meet the requirements of OAC 3745-66-93(B), secondary containment must be at a minimum: constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient thickness to prevent failure due to physical contact with the waste to which they are exposed, and the stress of daily operation, including the stress from nearby vehicular traffic; sloped or otherwise designed and operated to drain and remove all liquids resulting from leaks or spills.

157. At the time of the inspection, Respondent could not demonstrate that it had designed, installed, or operated a secondary containment system below the ancillary equipment that was lined with materials that are compatible with the waste, nor of sufficient thickness to prevent failure due to physical contact with the waste or the stress of operating daily which constitutes a violation of OAC 3745-66-93(C).

158. Pursuant to OAC 3745-66-93(F) ancillary equipment must be provided with full

secondary containment that meets the requirements of OAC 3745-66-93(B) and (C) except for the following pieces of equipment that are visually inspected for leaks on a daily basis: aboveground piping (exclusive of flanges, joints, valves, and connections); welded flanges, welded joints, and welded connections; sealless or magnetic coupling pumps and sealless valves; and pressurized aboveground piping systems with automatic shut-off devices.

159. At the time of the inspection, Respondent could not demonstrate that it had a secondary containment system in place for the ancillary equipment prior to putting the new tank system in place which constitutes a violation of OAC 3745-66-93(F).

160. Pursuant to OAC 3745-66-95(A) the owner or operator must inspect, at least each operating day: overfill/spill control equipment; the aboveground portions of the tank system; the construction materials and the area immediately surrounding the externally accessible portion of the tank system including secondary containment structures to detect releases of hazardous waste.

161. At the time of the inspection, Respondent was not inspecting the aboveground portions of the tank system each operating day.

162. Respondent's failure to inspect the aboveground portions of the tank system each operating day constitutes a violation of OAC 3745-66-95(A).

163. Pursuant to OAC 3745-66-95(C) owners and operators must document in the operating record each daily inspection of overfill/spill control equipment, the aboveground portions of the tank system, the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including secondary containment structures.

164. At the time of the inspection, Respondent was not documenting the inspections of

the aboveground portions of the tank system in the operating record.

165. Respondent's failure to document inspections of the aboveground portions of the tank system in the operating record constitutes a violation of OAC 3745-66-95(C).

166. Respondent did not meet the requirements of OAC 3745-66-90 through 3745-66-95 as they apply to the aboveground portions of the tank system; therefore Respondent did not satisfy the conditions of OAC 3745-52-34 necessary to exempt it from the requirement to obtain permit or interim status for the storage (accumulation) of hazardous waste. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and Chapter 3734.02(E)(2) of the ORC.

167. Pursuant to 40 C.F.R. §§ 262.34(a)(1)(ii) and 265.202, a generator of hazardous waste may accumulate on-site in tanks for 90 days or less without a permit provided that, among other things, the generator hazardous waste is placed in a tank in accordance with the applicable requirements of 40 C.F.R. part 265, subpart BB (§§ 265.1050 through 265.1064).

168. Pursuant to 40 C.F.R. § 265.1050(c) the owner or operator shall mark each piece of equipment to which subpart BB applies in such a manner that it can be distinguished readily from other pieces of equipment.

169. At the time of the inspection at the Moraine facility, Respondent had not marked all pieces of equipment for which subpart BB applies; specifically Respondent had not marked the purge tanks, delivery lines, pumps associated with the purge tanks, all connectors contained within the waste delivery system, and any valves up until the waste enters the hazardous waste storage tank.

170. Respondent's failure to mark equipment that is subject to subpart BB constitutes a

violation of 40 C.F.R. § 265.1050(c).

171. Respondent did not meet the requirements of 40 C.F.R. part 265, subpart BB; therefore Respondent did not satisfy the conditions of 40 C.F.R. § 262.34(a)(1)(ii) necessary to exempt it from the requirements to obtain interim status or a permit for the storage (accumulation) of hazardous waste. Respondent stored hazardous waste without a permit or interim status in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and the regulations found at 40 C.F.R. § 270.1(c).

172. Pursuant to 40 C.F.R. § 265.1052(a)(1) each pump in light liquid service must be monitored monthly to detect leaks by methods specified in § 265.1063(b).

173. Pursuant to 40 C.F.R. § 265.1057(a) each valve in light liquid service shall be monitored monthly to detect leaks by methods specified in § 265.1063(b) and comply with paragraphs (b) through (e) of 40 C.F.R. § 265.1057.

174. Pursuant to 40 C.F.R. § 265.1031, in "light liquid service" means that the piece of equipment contains or contacts a waste stream where the vapor pressure of one or more of the components in the stream is greater than 0.3 kilopascals (kPa) at 20 degrees Celsius, and the total concentration of the pure components having a vapor pressure greater than 0.3 kPa at 20 degrees Celsius is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions.

175. The hazardous waste storage tank, the two re-circulation loops, and the two purge tanks, contain purge solvent containing greater than 20% xylene waste with a vapor pressure in excess of 0.3 kPa.

176. From December of 1996 until the time of the inspection, April 17, 2001,

Respondent had not monitored pumps and valves associated with the waste delivery system to include: the two re-circulation loops and two purge tanks.

177. From December of 1996 until March of 2001, Respondent had not monitored pumps and valves associated with the hazardous waste tank.

178. Respondent's failure to monitor pumps on a monthly basis constitutes a violation of 40 C.F.R. § 265.1052(a)(1).

179. Pursuant to 40 C.F.R. § 265.1052(a)(2) each pump must be checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seals.

180. From December of 1996 until the time of the inspection, Respondent had not conducted visual inspection of each pump on a weekly basis.

181. Respondent's failure to conduct visual weekly inspections of each pump constitutes a violation of 40 C.F.R. § 265.1052(a)(2).

182. Pursuant to 40 C.F.R. § 265.1057(a) each valve in light liquid service shall be monitored monthly to detect leaks.

183. At the time of the inspection, Respondent did not have a monitoring program in place for valves associated with the waste delivery system.

184. Respondent's failure to monitor each valve located with the waste delivery system at the specified frequency constitutes a violation of 40 C.F.R. § 265.1057(a).

185. Pursuant to 40 C.F.R. § 265.1064(b) owners and operators must record the following information in an operating record: equipment identification number, approximate location within the installation, type of equipment, percent-by-weight total organics, hazardous waste state at the equipment, and method of compliance with subpart BB.

186. At the time of the inspection, Respondent had not recorded the required information about pumps, valves, and flanged connections in its operating record.

187. Respondent's failure to record information about pumps, valves and flanged connections constitutes a violation of 40 C.F.R. § 265.1064(b).

188. Respondent did not meet the requirements of 40 C.F.R. part 265, subpart BB, therefore Respondent stored hazardous waste without a permit or interim status in violation of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and the regulations found at 40 C.F.R. § 270.1(c).

II. PROPOSED CIVIL PENALTY

The Administrator of U.S. EPA may assess a civil penalty of up to \$25,000 per day for each violation of Subtitle C of RCRA according to Section 3008 of RCRA, 42 U.S.C. § 6928. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, required U.S. EPA to adjust its penalties for inflation on a periodic basis. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, published at 40 C.F.R. part 19, U.S. EPA may assess a civil penalty of up to \$27,500 per day for each violation of Subtitle C of RCRA occurring or continuing on or after January 31, 1997.

The Complainant proposes, subject to the receipt and evaluation of further relevant information from Respondent, that the Administrator assess a civil penalty up to the statutory maximum as stated at RCRA §3008(a)(3) for the violations alleged in this Complaint, in accordance with U.S. EPA's RCRA Civil Penalty Policy. A copy of the penalty policy is available upon request.

III. COMPLIANCE ORDER

Based on the foregoing, Respondent is hereby ordered-- pursuant to authority in 3008(a) of RCRA, 42 U.S.C. § 6928(a), and § 22.37(b) of the Consolidated Rules-- to comply with the following requirements immediately upon the effective date of this Order:

1. Respondent shall not treat, store, or dispose of hazardous waste without a RCRA permit, or operating license except as provided for in paragraphs 2 through 4 of this Compliance Order.
2. Respondent shall achieve and maintain compliance with all requirements and prohibitions governing the storage of hazardous waste applicable to generators, codified at or incorporated by Michigan Part 111 Administrative Rule 299.9306, OAC 3745-52-34(A) along with 40 C.F.R. § 262.34(a)(ii) requiring compliance with subparts BB and CC of 40 C.F.R. part 265.
3. Respondent shall notify U.S. EPA in writing upon achieving compliance with this Order within 30 calendar days after the date it achieves compliance. If Respondent has not completed any requirement of this Order, Respondent shall notify U.S. EPA of the failure, its reasons for the failure, and the proposed date for compliance within 10 calendar days after the due date set forth in this Order.
4. Respondent shall submit all reports, submissions, and notifications required by this Order the United States Environmental Protection Agency, Region 5, Waste, Pesticides and Toxics Division, Enforcement and Compliance Assurance Branch, Attention: Duncan Campbell (DE-9J), 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

IV. OPPORTUNITY TO REQUEST A HEARING

You have the right to request a hearing to contest any material fact in this Complaint, or to contest the amount of the proposed penalty, or both, as provided in Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 40 C.F.R. part 22. A copy of these rules accompanies this Complaint. To request a hearing, Respondent must specifically make the request in a written Answer to this Complaint. Respondent must file its written Answer with the Regional Hearing Clerk within 30 days of the date this Complaint is filed with the Regional Hearing Clerk. Consolidated Rules at § 22.15(a). In counting the 30-day time period, the actual date of receipt is not included. Saturdays, Sundays, and federal legal holidays are included in the computation. If the 30-day period expires on a Saturday, Sunday or federal legal holiday, the time period is extended to include the next day which is not a Saturday, Sunday or federal legal holiday. Consolidated Rules at § 22.7(a).

The Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with respect to which Respondent has any knowledge, or clearly state that Respondent has no knowledge as to particular factual allegations in the Complaint. The Answer shall also state:

1. The circumstances or arguments alleged to constitute the grounds of defense;
2. the facts Respondent intends to place at issue; and
3. whether Respondent requests a hearing.

Where Respondent states that it has no knowledge of a particular factual allegation, the

allegation is deemed denied. Respondent's failure to admit, deny, or explain any material fact in the Complaint constitutes an admission of that allegation. Consolidated Rules at § 22.15.

Respondent must file its Answer with the Regional Hearing Clerk (R-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the Answer and any subsequent documents filed in this action should be sent to Karen Peaceman, Office of Regional Counsel (C-14J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. Karen Peaceman may be telephoned at (312) 353-5751.

If Respondent fails to file a timely written Answer to the Complaint, with or without a request for a hearing, the Regional Administrator or Presiding Officer may issue a Default Order pursuant to § 22.17 of the Consolidated Rules. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing on the factual allegations under Section 3008 of RCRA, 42 U.S.C. § 6928. Default will also result in the penalty proposed in the Complaint becoming due and payable by Respondent without further proceedings 30 days after issuance of a final order upon default under § 22.27(c) of the Consolidated Rules. In addition, default will preclude Respondent from obtaining adjudicative review of any of the provisions contained in the Compliance Order section of the Complaint.

A hearing upon the issues raised in the Complaint and Answer shall be held (upon the request of Respondent in the Answer) and conducted according to the Administrative Procedures Act, 5 U.S.C. §§ 551 *et seq.*. The hearing will be in a location determined pursuant to § 22.21(d) of the Consolidated Rules.

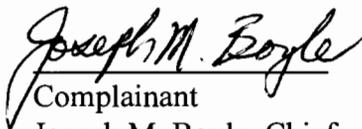
V. SETTLEMENT CONFERENCE

Whether or not you as Respondent request a hearing, you may request an informal conference to discuss the facts of this case and to arrive at a settlement. To request a settlement conference, Respondent should write to Duncan Campbell, Enforcement and Compliance Assurance Branch (DE-9J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, or telephone him at (312) 886-4555.

Your request for an informal settlement conference does not extend the 30-day period during which you must submit a written Answer and Request for Hearing. Respondent may pursue the informal conference procedure simultaneously with the adjudicatory hearing procedure.

U.S. EPA encourages all parties for whom a civil penalty is proposed to pursue the possibilities of settlement through an informal conference. U.S. EPA, however, will not reduce the penalty simply because the parties hold a conference. The parties will embody any settlement that they may reach as a result of the conference in a written Consent Agreement and Final Order (CAFO) issued by the Director, Waste, Pesticides and Toxics Division, U.S. EPA, Region 5. The issuance of a CAFO shall constitute a waiver of Respondent's right to request a hearing on any stipulated matter in the CAFO.

Dated this 17th day of October, 2003



Complainant
Joseph M. Boyle, Chief
Enforcement and Compliance Assurance Branch
Waste, Pesticides and Toxics Division
U.S. Environmental Protection Agency
Region 5

Complaint Docket No. RCRA-05- 2004 0001

CERTIFICATE OF SERVICE

I hereby certify that today I filed the original of this **Compliant and Compliance Order** along with this **Certificate of Service** in the office of the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604-3590.

I further certify that I then caused true and correct copies of the filed document to be mailed to the following via Certified Mail, Return Receipt Requested to:

The Corporation Company
30600 Telegraph Road
Bingham Farms, MI 48025

Certified Mail # 7001 0320 0006 1565 4215

CT Corporation Systems
1300 East 9th Street
Cleveland, Ohio 44114

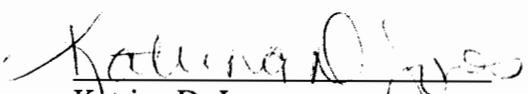
Certified Mail # 7001 0320 0006 0176 6250

Michelle T. Fisher, Esq.
General Motors Automotive - North America
300 Renaissance Center
Detroit, Michigan 48265-3000

Certified Mail # 7001 0320 0006 0176 6267

TO: E-19J
PROFESSIONAL
REGION 5
RECEIVED
REGIONAL HEARING CLERK
'03 OCT 17 P 3:01

Dated: October 17, 2003


Katrina D. Jones
Administrative Program Assistant
ECAB, WPTD
United States Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604-3590