



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

**ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED**

Mr. Mitchell Marsh
President
Finishing Services, Inc.
877 Ann Street
Ypsilanti, Michigan 48197
mitch.marsh@finishingservices.com
Mitchell.Marsh@metalfinishing-sc.com

Re: Notice of Potential Violation and Opportunity to Confer
Notice of Potential RCRA Violations and Opportunity for Settlement
MID079850699

Dear Mr. Marsh:

Information currently available to the U.S. Environmental Protection Agency suggests that Finishing Services, Inc. may be in violation of the Resource Conservation and Recovery Act (RCRA). By this letter, EPA is extending to you an opportunity to advise the Agency, in person or in writing, of any further information EPA should consider with respect to the potential violations.

EPA has identified significant potential reporting violations of RCRA, 42 U.S.C. § 6901 *et seq.*, and the regulations promulgated thereunder at Finishing Services, Inc. located in Ypsilanti, Michigan (Finishing). As a generator of hazardous waste, Finishing is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in Mich. Admin. Code r. 299.9301 and r. 299.9501.¹ Generator categories are based on the amount of waste generated per month.

Based on EPA's records review, Finishing has identified itself as a very small quantity generator of hazardous waste of hazardous waste since December 31, 2002. However, data for the year 2017 indicates that Finishing generated hazardous waste in quantities that exceeded the threshold amount of 1,000 kilograms of hazardous waste per month, which establishes Finishing as a large quantity generator for the reporting year 2017, established under Mich. Admin. Code r.

¹ Under Section 3006 of RCRA, EPA may authorize state implementing regulations. Following authorization, the state regulations operate in lieu of the federal regulations. Under Section 3008 of RCRA, EPA retains the authority to enforce state-authorized regulations. The regulations cited in this Notice of Potential Violation and Opportunity to Confer letter are authorized by the EPA.

299.9301. As a large quantity generator of hazardous waste, EPA has identified that Finishing potentially violated the following:

- i. Failure to file a biennial report for the year 2017 in violation of Mich. Admin. Code r. 299.9308(1) by March 1 of 2018; and,
- ii. Failure to submit sufficient initial notification and/or subsequent notification of the change in the type of RCRA hazardous waste activity (e.g., change in generator category from [very small quantity generator to large quantity generator]) in violation of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a) (EPA Form 8700-12).

EPA has identified these potential violations based on select waste reports of one treatment, storage, and disposal facility:

- i. In the year 2017, Finishing generated, accumulated and offered for transport and treatment a combined quantity of 21.03 tons (19,078 kilograms) of characteristic metal contaminated liquid (D007/D008 hazardous waste) and acid high nitric (D002 hazardous waste) thereby exceeding the threshold amount of 1,000 kilograms generated in any month of 2017, which qualified Finishing for the large quantity generator status; and,
- ii. There is no record of Finishing submitting a biennial report for the reporting year of 2017.

EPA seeks to bring your facility into compliance and resolve the limited violations alleged above within 60 days, provided your facility comes into compliance with the notification requirement of Section 3010(a) of RCRA, 42 U.S.C. § 6930(a) (EPA Form 8700-12) and annual reporting requirement of Mich. Admin. Code r. 299.9308(1), and enter into an Consent Agreement and Final Order (CAFO). The CAFO includes the payment of a civil penalty. To take advantage of this proposed settlement, you must:

- (1) Notify EPA within 15 calendar days informing EPA of your intent to enter into a CAFO to resolve the matters identified.
- (2) Complete and return to EPA the enclosed CAFO within 30 days of receipt of this letter. In signing the attached CAFO, you are certifying that you have corrected the violations (or will correct them as specified in the CAFO) and will pay the assessed penalty, and you are waiving your opportunity for a hearing or an appeal concerning the violations.
- (3) Correct the violations and provide the submittals required in the enclosed CAFO at paragraphs 35 and 36, within 30 days of the effective date of the CAFO.

During this process, Finishing will have the opportunity to address the alleged violations. We are giving you the opportunity to present any information that you believe we should consider. Relevant information might include evidence that you did not violate the law; evidence that you relied on compliance assistance from EPA or a state agency; evidence that we identified the wrong party; or financial data bearing on your ability to pay such a penalty.

You may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If

you fail to assert a business confidentiality claim, EPA may make all submitted information available, without further notice to you, to any member of the public who requests it. If you assert a business confidentiality claim, please contact Leah Werner at 312-885-0552 or at werner.leah@epa.gov for directions on how to submit the documents.

It should be noted that if Finishing decides not enter into a CAFO to resolve the alleged violations or to notify the EPA of its decision to enter into the proposed CAFO, EPA will consider such decision or the lack of notice as a rejection of the proposed CAFO. EPA will consider further options for ensuring Finishing's timely compliance with RCRA which could include a broader evaluation of your facility's compliance with RCRA under Section 3007 of RCRA. Under Section 3008 of RCRA and U.S. EPA's RCRA Civil Penalty Policy, EPA may assess a civil penalty of up to \$44,124 for each of the cited violations. However, EPA is offering you an opportunity to settle this matter for \$11,472 provided your facility comes into compliance within 30 days of the effective date of the CAFO.

If you are unable to respond to this letter in a timely fashion because of issues related to the COVID-19 pandemic, please submit a written request for an extension of time to respond via email to Leah Werner, explaining the specific reasons why the pandemic has affected your ability to respond.

This letter is being made available to the State of Michigan as a means of notifying the State pursuant to Section 3008(a) of RCRA, as amended, that EPA is preparing to issue a formal enforcement action to Finishing.

Thank you for your prompt attention to this matter. Please direct technical questions to Leah Werner, of my staff, at 312-885-0552 or werner.leah@epa.gov, and legal questions to Richard Clarizio at 312-886-0559 or clarizio.richard@epa.gov.

Sincerely,

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

Enclosures

cc: Alexandra Clark, EGLE, clarka37@michigan.gov
Lonnie Lee, EGLE, leel@michigan.gov
Elizabeth Browne, EGLE, brownec@michigan.gov