



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

**ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED**

Mr. Jason Roorda
Technical Services Manager
FIAMM Technologies, Inc.
1550 Leeson Avenue
Cadillac, MI 49601
Jason.Roorda@fiammcomponents.com

Re: Notice of Potential Violation and Opportunity to Confer
Notice of Potential RCRA Violations and Opportunity for Settlement
MID064176407

Dear Mr. Roorda,

Information currently available to the U.S. Environmental Protection Agency suggests that FIAMM Technologies, Inc. (FIAMM) 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 violation(s).

EPA has identified significant potential reporting violations of RCRA, 42 U.S.C. § 6901 *et seq.*, and the regulations promulgated thereunder at FIAMM located in Cadillac, Michigan. As a generator of hazardous waste, FIAMM is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in Michigan Admin. Code R 299.9301 and R 299.9501¹. Generator categories are based on the amount of waste generated per month.

Based on EPA's records review, FIAMM for several periods has identified itself as a very small quantity generator of hazardous waste. However, for the periods of 2015 and 2017, FIAMM generated hazardous waste in quantities that exceeded the threshold amount of 1,000 kilograms of hazardous waste per month, which establishes FIAMM as a large quantity generator, established under Michigan Admin. Code R 299.9301. As a large quantity generator of hazardous waste, EPA has identified that FIAMM potentially violated the following:

- i. Failure to file annual/biennial reports in violation of Michigan Admin. Code R 299.9308(1); and

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.

- 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 [SQG or CESQG to LQG]) 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 or more treatment, storage and disposal facilities:

- i. In the period of 2017, FIAMM generated, accumulated and offered for transport and treatment 48.53 tons (44,017 kgs) of D002/D008 [battery manufacturing plant scrap containing lead and off spec lead/acid batteries]; in quantities that exceeded the threshold amount of 1,000 kg per month, which qualified FIAMM for the large quantity generator status; and
- ii. In the period of 2015, FIAMM generated, accumulated and offered for transport and treatment 584.39 tons (530,150 kgs) of D008 [battery manufacturing plant scrap containing lead and off spec batteries]; in quantities that exceeded the threshold amount of 1,000 kg per month, which qualified FIAMM for the large quantity generator status; and
- iii. There is no record of FIAMM submitting a biennial report in the periods identified above.

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 the biennial reporting requirement of Michigan Admin. Code R. 299.9308(1), and enter into a 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, FIAMM 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 for directions on how to submit the documents.

It should be noted that if FIAMM 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 FIAMM'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 \$22,944 provided your facility comes into compliance within 60 days.

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 FIAMM.

Thank you for your prompt attention to this matter. Please direct technical questions to Leah Werner, of my staff, at (312) 886-0552 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

Attachments

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