



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUIRED

February 16, 2023

Brian Glover
CFO
Pro-Fab, Inc.
1040 Bosque Farms Road
Bosque Farms, NM 87068

Gail Armstrong
President
Pro-Fab, Inc.
1040 Bosque Farms Road
Bosque Farms, NM 87068

**RE: NOTICE OF VIOLATION WITH PROPOSED PENALTIES
PRO-FAB, INC.
EPA ID# NMR000010512**

Dear Mr. Glover and Ms. Armstrong:

On September 15, 2022, the New Mexico Environment Department ("NMED") conducted a hazardous waste Compliance Evaluation Inspection ("Inspection") at Pro-Fab, Inc. ("Pro-Fab"), located at 1040 Bosque Farms Road, Bosque Farms, New Mexico ("Facility"). Pro-fab is a metal component manufacturing facility, utilizing machining, welding, and electropolishing processes. These activities generate hazardous waste electropolishing bath solution, bath filters, paint-related material, and used oil.

Based on observations and review of the information obtained, NMED has determined that Pro-Fab is a Small Quantity Generator of hazardous waste as defined in 40 Code of Federal Regulations ("CFR") 262.13. Furthermore, NMED has determined that Pro-Fab has violated the New Mexico Hazardous Waste Management Regulations ("HWMR") 20.4.1 New Mexico Administrative Code ("NMAC") as specified below.

NMED inspectors observed the following violations:

1. Failure to make a hazardous waste determination, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.11. Specifically, during review of facility records Pro-Fab could not provide sampling information or other acceptable knowledge documentation to demonstrate that a hazardous waste determination had been performed for the following waste streams:
 - i. Hazardous waste electropolishing bath solution disposed in 2020 and 2022 with the D002 hazardous waste code, but not the D007 waste code. Per

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Hazardous Waste Bureau - 2905 Rodeo Park Drive East, Building 1 Santa Fe, New Mexico 87505-6313
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interviews with facility personnel, this waste stream would be expected to contain Chromium.

- ii. Hazardous waste electropolishing bath solution rinsate stored in 55-gallon plastic containers prior to being recycled in an on-site evaporator unit.
- iii. Spent electropolishing immersion bath filters, stored in a 55-gallon container at the electropolishing shop.
- iv. An assortment of waste paints, solvents and other materials observed on pallets and under a tarp outside of the welding shop.

Corrective Action: Pro-Fab submitted documentation to NMED via email on October 20, 2022 showing that Pro-Fab has obtained sampling information for the bath solution rinsate and immersion bath filter waste streams. Pro-Fab must provide NMED with documentation demonstrating that Pro-Fab has performed a hazardous waste determination for the paint-related materials observed outside of the welding shop during the inspection.

2. Failure to keep containers of hazardous waste stored at or near the point of generation closed, except when adding or removing waste, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a)(4). Specifically, NMED observed an open 55-gallon plastic container of spent hazardous waste immersion bath filters in the electropolishing building, and two (2) open secondary containment pallets containing hazardous waste electropolishing solution rinsate and an open 55-gallon plastic container with a small amount of refuse and dried hazardous waste electropolishing solution rinsate on the concrete pad outside of the electropolishing shop.

Corrective Action: Pro-Fab must provide NMED with documentation, such as photographs, demonstrating that hazardous waste containers stored at the Facility are properly closed. These containers must remain closed when not adding or removing waste.

3. Failure to label containers of hazardous waste stored at or near the point of generation with the words "hazardous waste", which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a)(5)(i). Specifically, NMED observed an unlabeled 55-gallon plastic container of spent hazardous waste immersion bath filters in the electropolishing building, and two (2) open secondary containment pallets containing hazardous waste electropolishing solution rinsate and an open 55-gallon plastic container with a small amount of refuse and dried hazardous waste electropolishing solution rinsate on the concrete pad outside of the electropolishing shop.

Corrective Action: Pro-Fab must provide NMED with documentation, such as photographs, demonstrating that hazardous waste containers stored at the Facility are properly labeled with the words "hazardous waste".

4. Failure to label containers of hazardous waste stored at or near the point of generation with an indication of the hazards presented by the waste, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.15(a)(5)(ii). Specifically, NMED observed an unlabeled 55-gallon plastic container of spent hazardous waste immersion bath filters in the electropolishing building, and two (2) open secondary containment pallets containing hazardous waste electropolishing solution rinsate and an open 55-gallon plastic container with a small amount of refuse and dried hazardous waste electropolishing solution rinsate on the concrete pad outside of the electropolishing shop.

Corrective Action: Pro-Fab must provide NMED with documentation, such as photographs, demonstrating that hazardous waste containers stored at the Facility are properly labeled with the words the proper indication of the type(s) of hazard(s) presented by the waste stream (e.g. corrosive, toxic).

5. Failure to label containers of hazardous waste with the words "hazardous waste", which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(6)(i)(A). Specifically, NMED observed five (5) unlabeled 55-gallon plastic containers of spent hazardous waste electropolishing rinse bath liquid at the concrete pad waste storage area; and an assortment of waste paints, solvents and other materials observed on pallets and under a tarp outside of the welding shop that were not labeled as hazardous waste.

Corrective Action: Pro-Fab must provide NMED with documentation, such as photographs, demonstrating that hazardous waste containers stored at the Facility are properly labeled with the words "hazardous waste".

6. Failure to label containers of hazardous waste with an indication of the hazards presented by the waste, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(6)(i)(B). Specifically, NMED observed five (5) unlabeled 55-gallon plastic containers of spent hazardous waste electropolishing rinse bath liquid at the concrete pad waste storage area.

Corrective Action: Pro-Fab must provide NMED with documentation, such as photographs, demonstrating that hazardous waste containers stored at the Facility are properly labeled with the words the proper indication of the type(s) of hazard(s) presented by the waste stream (e.g. corrosive, toxic).

7. Failure to mark containers of hazardous waste with the date upon which accumulation began, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(6)(i)(C). Specifically, NMED observed five (5) unlabeled 55-gallon plastic containers of spent hazardous waste electropolishing rinse bath liquid at the concrete pad waste storage area; and an assortment of waste paints, solvents and other materials observed on pallets and under a tarp outside of the welding shop that were not marked with an accumulation start date.

Corrective Action: Pro-Fab must provide NMED with documentation, such as photographs, demonstrating that hazardous waste containers stored at a Facility Central Accumulation Area ("CAA") are properly marked with the date accumulation at a CAA began for that container.

8. Failure to operate the facility to minimize the risk of the release of hazardous waste, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(8)(i). Specifically, NMED observed staining on the concrete pad outside the electropolishing shop indicating a release of hazardous waste electropolishing bath rinsate to the soil to the Northeast of the pad. Based on a review of the information obtained and interviews with facility personnel during the inspection, facility operations during rinsing of some metallic components in the electropolishing process line led to an unacceptable risk of the release of hazardous waste with the characteristic of toxicity (Chromium). Soil sampling of affected areas performed by Pro-Fab during Corrective Action specified by the NMED Groundwater Quality Bureau following the inspection shows that site soils have elevated Chromium concentrations above the NMED Soil Screening Levels (SSLs).

Corrective Action: Pro-Fab submitted documentation to NMED via email on October 20, 2022 showing that Pro-Fab has corrected the work process by not allowing rinsing activities outside of suitable secondary containment. Pro-Fab must provide NMED with documentation, such as photographs, demonstrating that soil and groundwater contamination resulting from releases of hazardous waste electropolishing bath rinsate have been sufficiently investigated and remediated.

9. Failure to make arrangements with local emergency response authorities, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(8)(vi). Specifically, Pro-Fab could not provide NMED with documentation of correspondence familiarizing local emergency response authorities with hazardous wastes and materials present at the facility.

Corrective Action: Pro-Fab must provide NMED with documentation, such as copies of relevant correspondence, demonstrating that Pro-Fab has attempted to make arrangements with local emergency response authorities informing them of the

types of wastes and hazards present at the Facility.

10. Failure to post contact information for the emergency response coordinator, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(9)(ii)(A). Specifically, NMED observed that contact information for the Facility's emergency response coordinator were not included in emergency postings at the Facility.

Corrective Action: Pro-Fab must provide NMED with documentation, such as photographs, demonstrating that Pro-Fab has posted an emergency posting next a Facility phone that includes the contact information for the Facility emergency response coordinator (all postings near hazardous waste storage areas recommended).

11. Failure to provide hazardous waste training to employees, which is a violation of 20.4.1.300 NMAC, incorporating 40 CFR § 262.16(b)(9)(iii). Specifically, NMED determined during facility personnel interview and review of information obtained that the hazardous communication training provided by Pro-Fab did not include appropriate hazardous waste or spill response training.

Corrective Action: Pro-Fab must provide NMED with documentation demonstrating that Pro-Fab employees with positions relevant to hazardous waste management have been provided with sufficient training relevant to their job responsibilities (e.g. spill response, hazardous waste handling).

12. Failure to label containers of used oil with the words "used oil", or with other wording to identify contents, which is a violation of 20.4.1.1002 NMAC, incorporating 40 CFR § 279.22(c)(1) and 20.4.1.1003(A) NMAC. Specifically, NMED observed two (2) unlabeled 5-gallon containers of used oil: one at the concrete pad outside of the electropolishing shop and the other outside of the welding shop.

Corrective Action: Pro-Fab must provide NMED with documentation, such as photographs, demonstrating that used oil containers stored at the Facility are properly labeled with the words "used oil", or with other appropriate wording.

13. Failure to keep containers of used oil being stored outdoors closed when not adding or removing oil, which is a violation of 20.4.1.1003(B) NMAC. Specifically, NMED observed two (2) open 5-gallon containers of used oil: one at the concrete pad outside of the electropolishing shop and the other outside of the welding shop.

Corrective Action: Pro-Fab must provide NMED with documentation, such as photographs, demonstrating that used oil containers stored outside at the Facility are properly closed when not adding or removing oil, or are stored in an indoor area.

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NMED is requesting that Pro-Fab provide to NMED within thirty (30) days of receipt of this letter a written description of any other actions taken by Pro-Fab to address the violations described above or a schedule for implementation of corrective actions not yet completed.

In accordance with New Mexico Statutory Authority 1978, Section 74-4-10, NMED may: (1) issue a Notice of Violation requesting voluntary compliance within a specified time period; (2) issue a Compliance Order requiring compliance immediately or within a specified time period or assess a civil penalty for any past or current violations of up to \$10,000 per day of non-compliance for each violation, or both; or (3) commence a civil action in District Court for appropriate relief, including a temporary or permanent injunction.

Due to the nature of the violations listed above, NMED will propose a civil penalty for these violations in a separate Notice of Proposed Penalty letter, a settlement privileged document in accordance with NMED's Civil Penalty policy, dated March 2017.

Any action taken in response to this letter does not relieve Pro-Fab of its obligation to comply with any other applicable laws and regulations. Pursuant to the NMED Delegation Order dated May 24, 2021, the Cabinet Secretary has delegated the authority to issue Notices of Violation under the Hazardous Waste Act and HWMRs to the Chief of the Hazardous Waste Bureau. If you have any questions regarding this letter, please contact Aaron Coffman of my staff at (505) 690-5211 or by email at aaron.coffman@env.nm.gov.

Sincerely,

Rick Shean

Digitally signed by
Rick Shean
Date: 2023.02.16
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Rick Shean
Bureau Chief and Acting CTAP Program Manager
Hazardous Waste Bureau

RS: ac

cc: Aaron Coffman, NMED HWB
Levi Cole, NMED District I Manager

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