



## REGION 4

ATLANTA, GA 30303

### **ELECTRONIC MAIL**

### **CONFIRMATION OF EMAIL RECEIPT REQUESTED**

Sau Wa Cheng  
Owner  
Ka Wah Trading Inc. d/b/a Excel Food Service  
2540 Shader Road  
Orlando, Florida 32804  
fung@ufsfood.com

Dear Sau Wa Cheng:

Information currently available to the U.S. Environmental Protection Agency suggests that Ka Wah Trading Inc. d/b/a Excel Food Service may have committed violations of Section 112(r)(1) of the Clean Air Act (CAA), 42 U.S.C. § 7412(r)(1); Section 103(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9603(a); and Sections 304(a) and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. §§ 11004(a) and 11022; and their implementing regulations. By this letter, the EPA is extending to you an opportunity to advise the EPA via a conference call, or in writing, of any further information the EPA should consider with respect to the potential violations.

Specifically, on March 10, 2020, authorized representatives of the EPA conducted an inspection of the Excel Food Service facility located at 2540 Shader Road, Orlando, Florida 32804 (the facility) to determine compliance with Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). On November 8, 2022, the EPA sent a Request for Information letter (RFI) to Excel Food Service seeking additional information regarding compliance with the CAA. Based on observations made during the inspection, review of Excel Food Service's response to the RFI, and other information collected during investigation, the EPA has identified potential CAA, CERCLA, and EPCRA violations. See the enclosure for a list of the potential violations.

The EPA has authority under Section 113 of the CAA, 42 U.S.C. § 7413, to pursue enforcement actions for violations of Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), including the issuance of compliance orders, the assessment of administrative penalties and/or the initiation of civil or criminal actions. The potential violations of CERCLA and EPCRA may be subject to an enforcement action pursuant to Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325 of EPCRA 42 U.S.C. § 11045,

respectively, which provide for the administrative assessment of penalties and/or the initial of a civil action.

To resolve the potential violations identified in the enclosure, the EPA requests that a representative of the facility contact Carrie Griffith of my staff at [griffith.carrie@epa.gov](mailto:griffith.carrie@epa.gov), within **seven (7) calendar days** of receipt of this letter to make arrangements to discuss the potential violations and the EPA's possible enforcement action. Please note that the EPA will have legal representation during these discussions. Please inform Carrie Griffith if you intend to have legal representation present as well.

If needed, the EPA is able to provide interpretation services. If you would like to have an interpreter present during discussions with the EPA, please inform Carrie Griffith by email at least ten (10) days prior to the scheduled meeting. Please specify the language needed in any requests.

You may voluntarily submit any documentation or information that you would like the EPA to review in advance of any in person meeting or teleconference on the matter as to why you believe the EPA should not take an enforcement action with respect to the above-mentioned potential violations. If you decide to submit such documentation or information, the EPA respectfully requests that you do so at least ten (10) days in advance of the meeting or teleconference. If you have questions regarding the type of information that should be submitted to the EPA or any other questions regarding this matter, please contact Carrie Griffith at the email address identified above.

Sincerely,

**TODD  
GROENDYKE**

Digitally signed by  
TODD GROENDYKE  
Date: 2024.06.05  
12:56:21 -04'00'

Todd Groendyke  
Chief  
South Air Enforcement Section  
Air Enforcement Branch

Enclosure

cc: Gihyang Kim, Human Resource Department  
[kawahtrading23@gmail.com](mailto:kawahtrading23@gmail.com)

Ding Zhou, General Manager  
[starrystarrymay@gmail.com](mailto:starrystarrymay@gmail.com)

## Enclosure

### List of Potential Violations

The U.S. Environmental Protection Agency conducted a Clean Air Act (CAA) inspection of the Ka Wah Trading Inc. d/b/a Excel Food Service facility located at 2540 Shader Road, Orlando, Florida 32804 (the facility), on March 10, 2020, and reviewed Excel Food Service's December 6, 2022, response to the EPA's Request for Information (RFI) letter. Based upon the findings of the EPA's inspection of the facility, information provided in Excel Food Service's response to the RFI, and other information gathered during additional investigation, the EPA is concerned that the facility may not be achieving adequate compliance with the requirements of the Clean Air Act, the Emergency Planning and Community Right-to-Know Act (EPCRA), or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

CAA Section 112(r)(1) mandates that the owners and operators of stationary sources producing, processing, handling, or storing substances listed at 40 C.F.R. § 68.130 or any other extremely hazardous substances have a general duty in the same manner and to the same extent as Section 654 of Title 29 of the United States Code to identify hazards which may result from accidental releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur.

CERCLA Section 103(a) requires that the person in charge of a facility immediately notify the National Response Center (NRC) whenever a reportable quantity (RQ) or more of a CERCLA hazardous substance is released. Ammonia is a CERCLA hazardous substance with an RQ of 100 pounds.

EPCRA Section 304 requires that the owner or operator of a facility immediately notify the State or Tribal Emergency Response Commission (SERC or TERC) and the Local or Tribal Emergency Planning Committee (LEPC or TEPC) whenever a RQ or more of an extremely hazardous substance or a CERCLA hazardous substance is released. Ammonia is an extremely hazardous substance and a CERCLA hazardous substance with an RQ of 100 pounds.

EPCRA Section 312 and 40 C.F.R. § 370 state that the owner or operator of a facility that is required to prepare or have available a Material Safety Data Sheet (MSDS) or Safety Data Sheet (SDS) for hazardous chemicals under the Occupational Safety and Health Act of 1970 (OSHA) and regulations promulgated under that Act, shall submit to the Local Emergency Planning Committee (LEPC), the State Emergency Response Commission (SERC), and the fire department with jurisdiction over the facility, on or before March 1 annually, a completed emergency and hazardous chemical inventory form (Tier I or Tier II) as described in 40 C.F.R. § 370. The form submitted must contain the information required by that Part for hazardous chemicals present at the facility at any one time in the previous calendar year in amounts equal to or greater than 10,000 pounds and for extremely hazardous substances present at the facility at any one time in amounts equal to or greater than the threshold planning quantity (TPQ) or 500 pounds, whichever is less.

Excel Food Service should come to the meeting prepared to discuss its compliance with the requirements of CAA Section 112(r)(1), CERCLA Section 103(a), and EPCRA Sections 304(a) and 312, specifically in relation to the items detailed below.

### **1. Identification of Hazards**

Excel Food Service failed to identify hazards by not conducting a hazard analysis of its facility. Failure to identify hazards associated with the use of extremely hazardous substances, including anhydrous ammonia, is a potential violation of the General Duty Clause under Section 112(r)(1) of the Act, 42 U.S.C. § 7412(r)(1).

### **2. Design and Maintenance**

Excel Food Service failed to design and maintain a safe facility. During the EPA’s March 10, 2020, inspection, EPA inspectors observed excessive icing and corrosion of the ammonia refrigeration system, as well as numerous expired pressure relief valves. The facility was also unable to provide standard operating procedures, preventative maintenance records, or ammonia sensor calibration records for the ammonia refrigeration system. Excel Food Service’s failure to design and maintain a safe facility is a potential violation of the General Duty Clause under Section 112(r)(1) of the Act, 42 U.S.C. §7412(r)(1).

### **3. Minimizing Consequences of Releases**

Excel Food Service failed to minimize the consequences of the accidental release of anhydrous ammonia which occurred on March 24, 2022. The facility did not have functional alarm or mitigation systems for the ammonia refrigeration process, and during the release, facility personnel were unaware of the release until emergency services arrived in response to a call from a business located across the street from the facility. During the EPA’s March 10, 2020, inspection, Excel Food Service was unable to provide an emergency action plan for the facility. Excel Food Service’s failure to minimize consequences of releases of chemicals is a potential violation of the General Duty Clause under Section 112(r)(1) of the Act, 42 U.S.C. §7412(r)(1).

### **4. EPCRA Reporting**

Information reviewed during EPA’s investigation indicates that during the calendar years 2022 and 2023, the facility stored anhydrous ammonia, an extremely hazardous substance, onsite in a quantity above the reporting threshold planning quantity of 500 pounds. However, the facility failed to submit Tier I or Tier II forms for the calendar years 2022 and 2023 as required under EPCRA Section 312, 42 U.S.C. § 11022, and the regulations promulgated at 40 C.F.R. Part 370.

### **5. Release Notification**

CERCLA Section 103(a)

Failure to immediately notify the National Response Center after a reportable quantity of ammonia was released from your facility located at 2540 Shader Road, Orlando, Florida 32804, on March 24, 2022.

EPCRA Section 304(a)

Failure to immediately notify the State Emergency Response Commission (SERC) and the Local Emergency Planning Committee (LEPC) after a reportable quantity of ammonia was released from your facility located at 2540 Shader Road, Orlando, Florida 32804, on March 24, 2022.