



REGION 5

CHICAGO, IL 60604

**ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED**

Mr. John Kelly
Chief Operations Officer
Cirba Solutions Services US, LLC f/k/a Battery Solutions, LLC
4930 Holtz Dr.
Wixom, Michigan 48393
jhkelly@cirbasolutions.com

Re: **Warning Letter: Notice of Potential Violations**
Cirba Solutions Services US, LLC f/k/a Battery Solutions, LLC
Facility ID MIK 241 575 671
Wixom, Michigan

Dear Mr. Kelly:

On September 1, 2022, the U.S. Environmental Protection Agency sent an information request to Battery Solutions, LLC ("facility or you") located in Wixom, Michigan. The purpose of the information request was to evaluate your compliance with certain provisions of the Resource Conservation and Recovery Act (RCRA) and its implementing regulations related to the exportation of hazardous waste.

Information currently available to EPA suggests that you may be in violation of RCRA. By this letter, EPA is extending to you an opportunity to advise the Agency, in writing, of any further information EPA should consider with respect to the potential violation(s).

We received two formal responses to the information request; the response on October 22, 2022, and the formal update on December 22, 2023. We also received emails on February 9, 2023, March 6, 2023, and March 23, 2023. Your responses, to date, have documented both your records regarding the shipments, including the efforts you have made to find a suitable alternative destination and to secure the batteries with proper packaging and storage, as well as challenges you have identified to accomplishing these goals. We are providing you with an opportunity to submit a response in writing to us no later than 30 calendar days after receipt of this letter documenting any additional actions, if any, which you have taken since the information request to address the potential violations identified below or demonstrating why the violation(s) have not occurred. EPA, however, reserves its right to

take additional actions under RCRA including issuing an information request, seeking a penalty, and issuing an order.

Violations

1. Hazardous Waste Exception Reporting

Under 40 C.F.R. § 262.83(h), an exporter of hazardous waste must file an exception report within 30 days with the US EPA if; the exporter has not received a copy of the hazardous waste manifest (if applicable) signed by the transporter identifying the point of departure of the hazardous waste from the United States within forty-five (45) days from the date it was accepted by the initial transporter, or if the exporter has not received a written confirmation of receipt from the foreign receiving facility within ninety (90) days from the date the waste was accepted by the initial transporter, or the foreign receiving facility notifies the exporter or the country of import notifies the US EPA of the need to return the waste.

Battery Solutions, LLC, exported fifty-two shipments of universal waste batteries subject to the above requirements starting in January 2019 and continuing into December 2019. None of these shipments reached the designated receiving facility, Fortum Waste Solutions in Kumla, Sweden. Battery Solutions, LLC, did not file an exception report until July 6, 2022. This was past the deadline of approximately April 2019, based on failure to receive confirmation of receipt from Fortum, and April 8, 2022, based on notification from EPA.

2. Hazardous Waste Recordkeeping and Reporting

Under 40 C.F.R. § 262.83(g), an exporter shall file an annual report with the US EPA no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year.

Battery Solutions, LLC, was required to submit an annual report for the universal waste batteries exported in 2019 by March 1, 2020. However, the report was not filed until April 6, 2022.

3. Duty to Return or Re-export Hazardous Wastes

Under 40 C.F.R. § 262.83(e) (incorporated by reference in Mich. Admin. Code. r. 299.9314(3) and 299.11003), when a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consent(s) and alternative arrangements cannot be made to recover or dispose of the waste in an environmentally sound manner in the country of import, the exporter must ensure that the hazardous waste is returned to the United States or re-exported to a third country. If the waste must be returned, the exporter must provide for the return of the hazardous waste shipment within ninety days from the time the

country of import informs EPA of the need to return the waste or such other period of time as the concerned countries agree.

On February 25, 2022, the Swedish EPA notified the US EPA of the need to return 672 steel drums on 168 wooden pallets stored in a warehouse facility in Norrköping, Sweden that needed to be returned to the United States. On March 9, 2022, the US EPA informed Battery Solutions, LLC, of the request.

To date, the batteries have neither been removed from the warehouse in Norrköping, Sweden, nor has an agreement with the respective governments been reached regarding the disposition of these batteries. Furthermore, subsequent investigations have revealed that these containers of batteries represent only the last five to seven shipments sent from Battery Solutions, LLC, to Sweden. The remainder of the batteries also never reached the receiving facility and are stored at the site of the former importing facility and need management to ensure safe disposition.

Actions Requested

In order to ensure compliance, by no later than 30 calendar days from the date of this letter, please provide information documenting the actions, if any have not already been documented, which you have taken since the information request to address the identified potential violations or demonstrating why the violation(s) have not occurred.

Please send all reports requested by this letter by electronic mail to:

r5lecab@epa.gov

and

Damico.William@epa.gov

The subject line of all email correspondence must include, "MIK 241 575 671." All electronically submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. If you are unable to send a response to these email addresses due to email size restrictions or other problems, contact William Damico to make additional arrangements for transmission of the response.

This letter is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks information from specific individuals or entities as part of an administrative investigation. You may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information you submit to EPA in response to this letter. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If you do not assert a business confidentiality claim when you submit the information, EPA may make this information available to the public without further notice.

The EPA contact in this matter is William Damico. You may call him at (312) 353-8207 if you have additional questions. Thank you for your prompt attention to these concerns and your efforts to protect human health and the environment.

Sincerely,

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

Enclosure

cc: Alexandra Clark, Manager, Enforcement Section, Michigan Department of Environment Great Lakes and Energy clarka37@michigan.gov
Molly Barker, K&L Gates Molly.Barker@klgates.com
Tom Edwards, Cirba Solutions toedwards@cirbasolutions.com