



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

VIA ELECTRONIC MAIL

Mr. John Klinck
Accuma Corporation
133 Fanjoy Road
Statesville, North Carolina 28625
John.Klinck@accumacorp.com

Re: Accuma Corporation – Statesville, North Carolina
Notice of Potential Violation and Opportunity to Confer

Dear Mr. Klinck:

Information currently available to the U.S. Environmental Protection Agency suggests that Accuma Corporation may have committed violations of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) requirements. By this letter, the EPA is extending to you an opportunity to advise the Agency via a conference call, or in writing, of any further information the EPA should consider with respect to the potential violations.

Specifically, on July 6, 2021, an authorized representative of the EPA sent an information request letter to the facility located at 133 Fanjoy Road, Statesville, North Carolina (the facility) to determine compliance with Section 312 of EPCRA, 42 U.S.C. § 11022, and Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated at 40 C.F.R. Parts 370 and 372, respectively. Based on information gathered, the EPA is concerned that the facility may have violated Section 312 and Section 313 of EPCRA and the requirements of 40 C.F.R. Part 370 and 40 C.F.R. Part 372, as explained below.

Summary of the Potential Section 312 Violations

EPCRA Section 312, 42 U.S.C. § 11022, and 40 C.F.R. Part 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. Part 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 contain the information required by that Part for extremely hazardous substances (EHS) 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.

The information reviewed indicates that the facility stored extremely hazardous substances and hazardous chemicals on-site above the reporting thresholds of 500 and 10,000 pounds respectively, during calendar years 2018, 2019, and 2020. However, the facility did not submit Tier I or Tier II forms by March 1, of the following year as required under EPCRA Section 312.

Summary of the Potential Section 313 Violations

EPCRA Section 313, 42 U.S.C. § 11023, and 40 C.F.R. Part 372 require the owner or operator of a facility to use readily available data, or reasonable estimates of the amounts of toxic chemicals involved, for completing a toxic chemical release inventory form (Form R or Form A). The completed toxic chemical release inventory form must be submitted to the Administrator of the EPA and to the official designated by the governor of the state in which the facility is located by July 1 of each year, for each toxic chemical listed under EPCRA Section 313(c) and in 40 C.F.R. § 372.65 that is manufactured, processed, or otherwise used in quantities exceeding the threshold quantity established in EPCRA Section 313(f) and set forth in 40 C.F.R. §§ 372.25, 372.27, or 372.28 during the preceding calendar year, provided the following elements are satisfied: (a) The facility has 10 or more full-time employees; and (b) the facility is in a Standard Industrial Classification (SIC) major group or industry listed in 40 C.F.R. § 372.23(a) for which the corresponding North American Industry Classification System (NAICS) subsector and industry codes are listed in 40 C.F.R. §§ 372.23(b) and 372.23(c).

The information reviewed indicates that the facility processed more than 25,000 pounds of lead (467,502 pounds) during calendar year 2019, and more than 25,000 pounds of antimony (28,791 pounds) during calendar year 2020. However, the facility did not report to either the EPA or to the state of North Carolina for reporting years 2019 and 2020 by July 1 of the following year.

Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 C.F.R. Part 19, the EPA may assess a civil penalty for each violation of EPCRA Section 312 and for each violation of EPCRA Section 313. Civil penalties under Section 325(c) of EPCRA may be assessed by administrative order. Each day a violation of EPCRA Section 312 continues to exist constitutes a separate violation and each day a violation of EPCRA Section 313 continues to exist constitutes a separate violation. Failure to report to the SERC, LEPC, and Fire Department are considered separate violations of EPCRA Section 312. Failure to report to the EPA or to the state of North Carolina are considered separate violations of EPCRA Section 313.

To resolve the potential violations identified above, the EPA requests that a representative of the facility contact Mr. Jordan Noles of my staff at (404) 562-9105, or via email at Noles.Jordan@epa.gov, within **seven (7) calendar days** of receipt of this letter to make arrangements to schedule a teleconference to discuss the potential violations and the EPA's possible enforcement action. Please inform Mr. Noles if you intend to have legal representation present during these discussions.

The facility may voluntarily submit any documentation or information that it would like the EPA to review in advance of any 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 the facility decides to submit such documentation or information, the EPA respectfully requests that the facility does so two weeks in advance of any teleconference on the matter. 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 Mr. Noles at the contact information identified above.

Sincerely,

**JASON
DRESSLER**

Digitally signed by JASON
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Date: 2022.01.26
13:01:28 -05'00'

Jason Dressler
Chief
North Air Enforcement Section