

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

9. Respondent certifies that it is complying with Section 313 of EPCRA, 42 U.S.C. § 11023.

Statutory and Regulatory Background

10. EPA promulgated the Toxic Chemical Release Reporting Community Right-to-Know Rule at 40 C.F.R. Part 372 pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048.

11. Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.22 provide that the requirements of Section 313 and Part 372 apply to any facility that has 10 or more full-time employees, that falls under a North American Industry Classification System (NAICS) Code (Code of 325998; All Other Miscellaneous Chemical Product and Preparation Manufacturing), and that manufactures, imports, processes, or otherwise uses a toxic chemical identified at Section 313(c) and listed at 40 C.F.R. § 372.65 in an amount that exceeds the threshold for reporting, as set forth in Section 313(f) and in 40 C.F.R. §§ 372.25, 372.27, and 372.28.

12. Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30 require the owner or operator of a facility subject to the requirements of Section 313 of EPCRA and 40 C.F.R. Part 372 to complete and submit to the Administrator of EPA and to the state in which the facility is located, no later than July 1, 1988 and each July 1 thereafter, a chemical release form

published pursuant to Section 313(g) of EPCRA for each toxic chemical listed under Section 313(c) of EPCRA that was manufactured, processed, or otherwise used at the facility during the preceding calendar year in a quantity exceeding the threshold established by Section 313(f) of EPCRA.

13. EPA published the Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (Form R) at 40 C.F.R § 372.85 pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g).

14. All persons required to report pursuant to Section 313(b) of EPCRA must use Form R according to Section 313(a) of EPCRA, 42 U.S.C. § 11023(a).

15. The Administrator of EPA may prescribe regulations as may be necessary to carry out EPCRA. See 42 U.S.C. § 11048.

16. As set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, except as provided in 40 C.F.R. §§ 372.27 and 372.28, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds for calendar years including and subsequent to 1989. The reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds for calendar years including and subsequent to 1987.

17. Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), authorizes the Administrator of EPA to assess a civil penalty of up to \$25,000 per day for each violation of Section 313 of EPCRA, 42 U.S.C. § 11023. The Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note (1990), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note (1996), required federal agencies to issue regulations adjusting for inflation the maximum civil penalties that may be assessed pursuant to each agency's statutes. EPA may assess a civil penalty of up to \$58,328 per day for each violation of Section 313 of

EPCRA that occurred after November 2, 2015, where penalties are assessed on or after January 13, 2020, pursuant to Section 325(c)(1) and (3) of EPCRA, 42 U.S.C. § 11045(c)(1) and (3), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

18. Respondent is a “person” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

19. Respondent is a company doing business in the State of Illinois.

20. Respondent was an owner or operator of the facility located at 4831 South Whipple Street, Chicago, Illinois 60632-2025, during the calendar year 2017.

21. Respondent employed at its facility the equivalent of at least 10 employees with total paid hours equal to or more than 20,000 hours per calendar year, as defined at 40 C.F.R. § 372.3.

22. Respondent’s facility supplies chemicals to the plating and metal finishing industries. It consists of buildings, equipment and structures and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned by the same person.

23. The facility has a NAICS Code of 325998 – All Other Miscellaneous Chemical Product and Preparation Manufacturing, a covered NAICS code as defined at Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.22.

24. During the calendar year 2017, Respondent “processed,” as defined by 40 C.F.R. § 372.3, toxic chemicals identified at Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), and listed at 40 C.F.R. § 372.65, in quantities exceeding the thresholds for reporting set forth at Section 313(f) and at 40 C.F.R. § 372.25.

25. On May 29, 2019, representatives of EPA inspected the Respondent's facility.

Count 1

26. Complainant incorporates paragraphs 1 through 25 of the CAFO as if set forth in this paragraph.

27. During the calendar year 2017, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, Nickel Compounds, a chemical category listed under 40 C.F.R. § 372.65 (CASRN N495), in the amount of 56,000 pounds, which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

28. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for Nickel Compounds for the calendar year 2017 by July 1, 2018.

29. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for Nickel Compounds for the calendar year 2017 by July 1, 2018.

30. Respondent submitted Form R for Nickel Compounds to the Administrator of EPA and to Illinois on July 31, 2019, for the calendar year 2017.

31. Respondent's failure to timely submit a Form R for Nickel Compounds to the Administrator of EPA and to Illinois for the calendar year 2017 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count II

32. Complainant incorporates paragraphs 1 through 25 of the CAFO as if set forth in this paragraph.

33. During the calendar year 2017, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, Chromium Compounds, a chemical category listed under 40 C.F.R.

§ 372.65 (CASRN N090), in the amount of 50,000 pounds, which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

34. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for Chromium Compounds for the calendar year 2017 by July 1, 2018.

35. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for Chromium Compounds for the calendar year 2017 by July 1, 2018.

36. Respondent submitted Form R for Chromium Compounds to the Administrator of EPA and to Illinois on July 31, 2019, for the calendar year 2017.

37. Respondent's failure to timely submit a Form R for Chromium Compounds to the Administrator of EPA and to Illinois for the calendar year 2017 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count III

38. Complainant incorporates paragraphs 1 through 25 of the CAFO as if set forth in this paragraph.

39. During the calendar year 2017, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, Zinc Compounds, a chemical category listed under 40 C.F.R. § 372.65 (CASRN N982), in the amount of 39,000 pounds, which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

40. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for Zinc Compounds for the calendar year 2017 by July 1, 2018.

41. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for

Zinc Compounds for the calendar year 2017 by July 1, 2018.

42. Respondent submitted Form R for Zinc Compounds to the Administrator of EPA and to Illinois on July 31, 2019, for the calendar year 2017.

43. Respondent's failure to timely submit a Form R for Zinc Compounds to the Administrator of EPA and to Illinois for the calendar year 2017 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Count IV

44. Complainant incorporates paragraphs 1 through 25 of the CAFO as if set forth in this paragraph.

45. During the calendar year 2017, Respondent's facility processed, as that term is defined at 40 C.F.R. § 372.3, Nitric Acid, a compound listed under 40 C.F.R. § 372.65 (CASRN 7697-37-2), in the amount of 51,000 pounds, which is greater than 25,000 pounds, the threshold for reporting, as set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.

46. Respondent was required to submit to the Administrator of EPA and to Illinois a Form R for Nitric Acid for the calendar year 2017 by July 1, 2018.

47. Respondent did not submit to the Administrator of EPA and to Illinois a Form R for Nitric Acid for the calendar year 2017 by July 1, 2018.

48. Respondent submitted Form R for Nitric Acid to the Administrator of EPA and to Illinois on July 31, 2019, for the calendar year 2017.

49. Respondent's failure to timely submit a Form R for Nitric Acid to the Administrator of EPA and to Illinois for the calendar year 2017 violated Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. § 372.30.

Civil Penalty

50. Complainant has determined the proposed civil penalty to settle this action is \$24,710.00, pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c). In determining the proposed penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violations, and with respect to the Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violations, and any other matters as justice may require. Complainant also considered EPA's Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986) and Section 6607 of the Pollution Prevention Act (1990) [amended] (April 12, 2001).

51. Respondent must pay a \$24,710.00 civil penalty for the EPCRA violations in six (6) installments with interest as follows:

<u>Installment</u>	<u>Due by</u>	<u>Payment</u>	<u>Principal</u>	<u>Interest (1%)</u>
Payment #1	Within 30 days of effective date of CAFO	\$4,118.33	\$4,118.33	\$0.00
Payment #2	Within 60 days of effective date of CAFO	\$4,152.65	\$4,118.33	\$34.32
Payment #3	Within 90 days of effective date of CAFO	\$4,132.06	\$4,118.33	\$13.73
Payment #4	Within 120 days of effective date of CAFO	\$4,128.63	\$4,118.33	\$10.30
Payment #5	Within 150 days of effective date of CAFO	\$4,125.19	\$4,118.33	\$6.86
Payment #6	Within 180 days of effective date of CAFO	\$4,121.78	\$4,118.33	\$3.43
<hr/>				
Total	-----	\$24,778.64	\$24,710.00	\$68.64

52. Respondent must pay the installments by any of the following methods:

- Sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must note Accu-Labs, Inc. and the docket number of this CAFO.

- Sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Accu-Labs, Inc. and the docket number of this CAFO.

- Electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state Accu-Labs, Inc. and the docket number of this CAFO.

- Automated Clearinghouse (ACH, also known as REX or remittance express) electronic funds transfer, payable to "Treasurer, United States of America," and sent

to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

In the comment area of the electronic funds transfer, state Accu-Labs, Inc. and the docket number of this CAFO.

- An on-line payment. To pay on-line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

53. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
r5hearingclerk@epa.gov

Freddie Arocho-Perez (ECP-17J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
ArochoPerez.Freddie@epa.gov
r5lecab@epa.gov

Luis Oviedo (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
Oviedo.Luis@epa.gov

- 54. This civil penalty is not deductible for federal tax purposes.
- 55. If Respondent does not pay any installment payment as set forth in paragraph 51,

above, the entire unpaid balance of the civil penalty and any amount required by paragraph 56, below, shall become due and owing, upon written notice by EPA to Respondent of the delinquency. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

56. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

57. The parties' consent to service of this CAFO by e-mail at the following valid e-mail addresses: Oviedo.Luis@epa.gov (for Complainant); and noel@acculabsinc.com and scornwell@acculabsinc.com (for Respondent).

58. Respondent's full compliance with this CAFO shall only resolve Respondent's liability for federal administrative civil penalties under Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), for the violations alleged in this CAFO.

59. Respondent certifies that it is now in compliance with EPCRA § 313 and its implementing regulations.

60. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

61. This CAFO does not affect Respondent's responsibility to comply with EPCRA and other applicable federal, state, and local laws.

62. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Section 313 of EPCRA.

63. The terms of this CAFO bind Respondent, its successors, and assigns.

64. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

65. Each party agrees to bear its own costs and attorneys' fees in this action.

66. This CAFO constitutes the entire agreement between the parties.

In the Matter of:
Accu-Labs, Inc.
Docket No. EPCRA-05-2022-0014

Accu-Labs, Inc., Respondent

Date 9/3/22

Stephen Cornwell
Stephen Cornwell
President
Accu-Labs, Inc.

In the Matter of:
Accu-Labs, Inc.
Docket No. EPCRA-05-2022-0014

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2022.09.21 12:47:17
-05'00'

Michael D. Harris
Director
Enforcement and Compliance Assurance Division

In the Matter of:
Accu-Labs, Inc.
Docket No. EPCRA-05-2022-0014

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

ANN COYLE Digitally signed by ANN
COYLE
Date: 2022.09.21
13:55:24 -05'00'

Ann L. Coyle
Regional Judicial Officer
United States Environmental Protection Agency
Region 5

In the Matter of:
Accu-Labs, Inc.
Docket No. EPCRA-05-2022-0014

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, which was filed on September 22, 2022, this day in the following manner to the addressees:

Copy by email to Respondent's Representative:
(Delivery Receipt Requested) Stephen Cornwell
President
Accu-Labs, Inc.
4831 South Whipple Street
Chicago, Illinois 60632-2025
scornwell@acculabsinc.com

Copy by email to Respondent's Representative: Noel Buczkowski-Cornwell
noel@acculabsinc.com

Copy by email to Respondent's Representative: Barb Greco
bgreco@acculabsinc.com

Copy by email to Attorney for Complainant: Luis Oviedo
oviedo.luis@epa.gov

Copy by email to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Juliane Grange
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 5