



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2014 OCT 20 AM 10:38

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: CAA-08-2015-0003

IN THE MATTER OF:

CORDEN US, LLC.
CORDENPHARMA COLORADO INC.
Boulder, CO

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 20th Day of October, 2014

Elyana R. Sutin
Regional Judicial Officer

Corden US, LLC
CordenPharma Colorado, Inc.
EXPEDITED SETTLEMENT AGREEMENT

SETTLEMENT

5. In consideration of the factors contained in section 113(d)(1) of the Act and the entire record, the parties enter into this ESA in order to settle the violations for the total penalty amount of \$3,900. An explanation for the penalty calculation is found in the attached *Expedited Settlement Penalty Matrix*.
6. This settlement is subject to the following terms and conditions:
 - a. The Respondent, by signing below, waives any objections that it may have regarding jurisdiction, neither admits nor denies the specific factual allegations contained in the Checklist and Penalty Assessment and consents to the assessment of the penalty as stated above.
 - b. The Respondent waives its rights to a hearing afforded by section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), and to appeal this ESA.
 - c. Each party to this action shall bear its own cost and attorney fees, if any.
 - d. The Respondent certifies that the violations listed in the Checklist and Penalty Assessment have been corrected.
 - e. The Respondent waives any and all available rights to judicial or administrative review or other remedies which the Respondent may have, with respect to any issue of fact or law or any terms and conditions set forth in this ESA, including any right of judicial review under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.
7. After the Final Order is issued by the Regional Judicial Officer, a fully executed copy of this ESA and the Final Order will be sent to the Respondent. Within twenty (20) days after receiving the Final Order, the Respondent shall remit payment in the amount of \$3,900. **The payment shall reference the name and docket number of this case** and be made by remitting a cashier's or certified check, for this amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

Regular Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Corden US, LLC
CordenPharma Colorado, Inc.
EXPEDITED SETTLEMENT AGREEMENT

Federal Express, Airborne, or other commercial carrier
(or when a physical address is required):

US Bank
U.S. EPA Fines & Penalties
Government Lockbox 979078
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact: Natalie Pearson
(314) 418-4087

Wire Transfers:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read:
“ D 68010727 Environmental Protection Agency”

ACH Transactions (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact - Jesse White 301-887 6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account Number: 310006
CTX Format.

There is now an On Line Payment Option, available through the U.S. Department of Treasury. This payment option can be accessed from the information below:

www.PAY.GOV
(Enter sfo 1.1 in the search field
Open form and complete required fields)

Corden US, LLC
CordenPharma Colorado, Inc.
EXPEDITED SETTLEMENT AGREEMENT

A copy of the check, or notification that the payment has been made by one of the other methods listed above, shall be sent simultaneously to:

Tina Artemis, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street [8RC]
Denver, Colorado 80202-1129

and

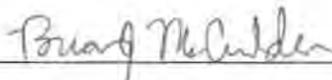
Greg Bazley
EPCRA/RMP Enforcement Program
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street [8ENF-AT]
Denver, Colorado 80202-1129

8. The penalty specified in this ESA shall not be deductible for purposes of state or federal taxes.
9. Once the Respondent receives a copy of the Final Order and pays in full the penalty assessment described above, the EPA agrees not to take any further civil administrative penalty action against the Respondent for the violations alleged in the Checklist and Penalty Assessment, which has been incorporated herein.
10. This ESA does not pertain to any matters other than those expressly specified herein. The EPA reserves and this ESA is without prejudice to, all rights against the Respondent with respect to all other matters, including but not limited to, the following:
 - a. claims based on a failure by the Respondent to meet a requirement of this ESA including any claims for costs which are caused by the Respondent's failure to comply with this Agreement;
 - b. claims based on criminal liability; and
 - c. claims based on any other violations of the Act or federal or state law.
11. If the Respondent fails to timely submit the above-referenced payment after receiving the Final Order, a motion may be filed to withdraw the ESA and Final Order. If that motion is granted, the EPA may then file an enforcement action against the Respondent for the violations addressed herein.
12. This ESA, upon incorporation into the Final Order, applies to and is binding upon the EPA and upon Respondent and Respondent's successors and assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this ESA. This ESA contains all terms of the settlement agreed to by parties.

Corden US, LLC
CordenPharma Colorado, Inc.
EXPEDITED SETTLEMENT AGREEMENT

13. Nothing in this ESA shall relieve Respondent of the duty to comply with the Act and its implementing regulations.
14. The undersigned representative of the Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this ESA and to bind the Respondent to the terms and condition of this ESA.
15. The parties agree to submit this ESA to the Regional Judicial Officer with a request that it be incorporated into a final order.

For Respondent Corden US, LLC:



Date: 9/25/2014
Name (print): Brian J. McCudden
Title (print): President & CEO

For Complainant United States Environmental Protection Agency, Region 8:



Date: 10-20-2014
Suzanne J. Bohan
Acting Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

**RMP PROGRAM LEVEL 3 PROCESS CHECKLIST
ALLEGED VIOLATIONS & PENALTY ASSESSMENT**

Respondent: Cordon US, LLC
Facility Name: Cordon Pharma Colorado, Inc.

INSPECTION DATE: 3/20/2014

SUBPART D: PREVENTION PROGRAM [68.65 – 68.87]

PENALTY

Prevention Program – Compliance Audit [68.79]

Has the owner or operator promptly determined and documented an appropriate response to each of the findings of the audit and documented that the deficiencies had been corrected? [68.79(d)] **No.**

1500

- **The Facility did not properly determine and document an appropriate response to Finding #32 in the 2009 PSM Compliance Audit. Finding #32 states, “Piping systems are not being inspected in accordance with recognized and generally-accepted good engineering practice (e.g., API 570). Interviews indicate that inspections are performed only after problems (e.g., leaks) are detected.” At the time of the EPA inspection on March 20, 2014, inspections still had not been conducted on piperidine process piping.**
- **The Facility also conducted a Compliance Audit in 2012, in which it failed to identify and respond to the failure to conduct inspections on piperidine process piping.**

SUBPART D: Mechanical Integrity [68.73]

Has the owner or operator implemented written procedures to maintain the on-going integrity of the process equipment? [68.73(a)] **No.**

2400

- **The Facility failed to implement written procedure SOPFACM0337V5 *Vessel Inspection Program*. All pressure vessels and tanks were not inspected at required frequencies, including, but not limited to, the tank containing piperidine SJ-20000-081.**

<ul style="list-style-type: none">• The Facility failed to implement written procedure SOPFACM0338 <i>Pipe Inspection Program</i>. All process piping was not inspected at required frequencies.	
BASE PENALTY	3900



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460
OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

EXPEDITED SETTLEMENT PENALTY MATRIX
Corden US, LLC
CordenPharma Colorado, Inc.
Boulder, CO

MULTIPLIER FACTORS FOR CALCULATING PROPOSED PENALTIES FOR VIOLATIONS
FOUND DURING RMP INSPECTIONS

Private Industries

# of Employees	1 – 5*	>5 – 10*	> 10*
0 – 9	0.4	0.6	0.8
10 – 100	0.6	0.8	1.0
> 100	1.0	1.0	1.0

* Largest Multiple of Threshold Quantity of any Regulated Chemical(s) on Site.

PROPOSED PENALTY WORKSHEET

Adjusted Penalty = Unadjusted Penalty X Size-Threshold Quantity Multiplier

The Unadjusted Penalty is calculated by adding up all the penalties listed on the Risk Management Program Inspections Findings, Alleged Violations and Proposed Penalty Sheet.

The Size-Threshold Quantity multiplier is a factor that considers the size of the facility and the amount of regulated chemicals at the facility.

The Proposed Penalty is the amount of the non-negotiable penalty that is calculated by multiplying the Total Penalty and the Size/Threshold Quantity multiplier.

Example:

XYZ Facility is a private company which has 24 employees and 7 times the threshold amount for the particular chemical in question. After adding the penalty numbers in the Risk Management Program Inspection Findings, Alleged Violations and Proposed Penalty Sheet an unadjusted penalty of \$4700 is derived.

Calculation of Adjusted Penalty

- 1st Reference the Multipliers for calculating proposed penalties for violations found during RMP inspection matrix. Finding the column for >100 employees and the row for 1- 5 times the threshold quantity amount gives a multiplier factor of 1.0.
- 2nd Use the Adjusted Penalty formula

Adjusted Penalty = \$3,900 (Unadjusted Penalty) X 1.0 (Size-Threshold Multiplier)
Adjusted Penalty = \$3,900
- 3rd An Adjusted Penalty of \$3,900 will be assessed to Corden US, LLC for Violations found during the RMP Compliance Inspection. This amount will be found in the Expedited Settlement Agreement (ESA).

Calculation for Adjusted Penalty – Corden US, LLC

Adjusted Penalty = Unadjusted Penalty X Size-Threshold Quantity Multiplier

$$\$3,900 = \$3,900 \times 1.0^*$$

* # of employees is over 200. The covered chemical, piperidine, exceeds the listed threshold value by 2.533 times.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT and FINAL ORDER** in the matter of **CORDEN US, LLC., CORDENPHARMA COLORADO, INC.; DOCKET NO.: CAA-08-2015-0003**, was filed with the Regional Hearing Clerk on October 20, 2014.

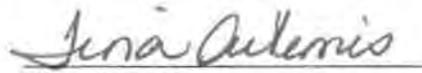
Further, the undersigned certifies that a true and correct copy of the document was delivered to Marc Weiner, Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail, domestic return receipt on October 20, 2014, to:

Robin Livingston, EHS Manager
CordenPharma Colorado, Inc.
2075 North 55th Street
Boulder, CO 80301

And emailed to:

Kim White
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

October 20, 2014


Tina Artemis
Paralegal/Regional Hearing Clerk