

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

Received by
EPA Region 7
Hearing Clerk

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	
Curia Missouri, Inc.)	Docket No. EPCRA-07-2022-0034
2460 West Bennett Street)	
Springfield, Missouri 65807)	
)	
Respondent.)	
)	
Proceeding under Section 325(c) of the)	
Emergency Planning and Community)	
Right-to Know Act, 42 U.S.C. § 11045(c))	
_____)	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

1. The United States Environmental Protection Agency, Region 7 (EPA or Complainant) and Curia Missouri, Inc. (Respondent) have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

2. This proceeding is an administrative action for the assessment of civil penalties pursuant to Section 325(c) of the Emergency Planning and Community Right-to-Know Act (“EPCRA”), 42 U.S.C. § 11045(c).

3. This Consent Agreement serves as notice that EPA alleges that Respondent has violated the reporting requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, and the regulations promulgated thereunder.

Parties

4. Complainant, by delegation from the Administrator of EPA and the Regional Administrator of Region 7, is the Director of the Enforcement and Compliance Assurance Division, Region 7.

5. The Respondent is Curia Missouri, Inc., a company registered in and authorized to do business in the State of Missouri. The Respondent owns and operates a facility that manufactures active pharmaceutical ingredients, intermediates, bulk pharmaceutical chemicals, and miscellaneous organic chemicals located at 2460 West Bennett Street, Springfield, MO 65807 (“Respondent’s facility”).

Statutory and Regulatory Requirements

6. The Emergency Planning and Community Right-to-Know Act of 1986 was created to help communities plan for chemical emergencies. It requires industry to report on the storage, use and release of hazardous substances to federal, state, and local governments. EPCRA requires state and local governments and Indian tribes to use this information to prepare for and protect their communities from potential risks.

7. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30 require the owner or operator of a facility that:

- a) has ten or more full-time employees;
- b) is an establishment with a primary SIC major group or industry code listed in 40 C.F.R. § 372.23(a) for which the primary NAICS subsector or industry code is listed in 40 C.F.R. §§ 372.23(b) or (c); and
- c) “manufactured, processed, or otherwise used” a toxic chemical listed under Subsection 313(c) of EPCRA, 42 U.S.C. § 11023(c), and 40 C.F.R. § 372.65, in excess of the threshold quantity established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. §§ 372.25, 372.27, 372.28, or 372.29 during the calendar year.

to complete and submit a toxic chemical release inventory Form R to the Administrator of EPA and to the State in which the subject facility is located by July 1, for the preceding calendar year, for each toxic chemical known by the owner or operator to be “manufactured, processed, or otherwise used” in quantities exceeding the established threshold quantity during that preceding calendar year.

8. According to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25, the threshold amount for reporting under Section 313(b) of EPCRA, 42 U.S.C. § 11023(b), and 40 C.F.R. § 372.30 is 25,000 pounds for any toxic chemical “manufactured or processed” and 10,000 pounds for any toxic chemical “otherwise used” for the applicable

calendar year. Alternative reporting thresholds for certain other chemicals are set forth in 40 C.F.R. §§ 372.27 and 372.28.

9. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation, if, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 313, 42 U.S.C. § 11023. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$62,689 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 12, 2022.

Definitions

10. The term “facility” means “all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with such person). A facility may contain more than one establishment.” 42 U.S.C. § 11049(4) and 40 C.F.R. § 372.3.

11. The term “person” means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body. 42 U.S.C. § 11049(7).

12. The term “full-time employees” means “2,000 hours per year of full-time equivalent employment. A facility would calculate the number of full-time employees by totaling the hours worked during the calendar year by all employees, including contract employees, and dividing that total by 2,000 hours.” 40 C.F.R. § 372.3.

13. The term “toxic chemical” means a “chemical or chemical category listed in 40 C.F.R. § 372.65.” 40 C.F.R. § 372.3.

14. The term “manufacture” means “to produce, prepare, import or compound a toxic chemical. Manufacture also applies to a toxic chemical that is produced coincidentally during the manufacture, processing, use or disposal of another chemical or mixture of chemicals, including a toxic chemical that is separated from that other chemical or mixture of chemicals as a byproduct, and a toxic chemical that remains in that other chemical mixture of chemicals as an impurity.” 40 C.F.R. § 372.3.

15. The term “process” means “the preparation of a toxic chemical, after its manufacture, for distribution in commerce: (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance; or (2) as part of an article containing the toxic chemical. Process also applies to the processing of a toxic chemical contained in a mixture or trade name product.” 40 C.F.R. § 372.3.

16. The term “otherwise use” means “any use of a toxic chemical, including a toxic chemical contained in a mixture or other trade name product or waste, that is not covered by the terms ‘manufacture’ or ‘process.’ Otherwise use of a toxic chemical does not include disposal, stabilization (without subsequent distribution in commerce), or treatment for destruction unless: (1) the toxic chemical that was disposed, stabilized, or treated for destruction was received from off-site for the purposes of further waste management; or (2) the toxic chemical that was disposed, stabilized, or treated for destruction was manufactured as a result of waste management activities on materials received from off-site for the purposes of further waste management activities. Relabeling or redistributing of the toxic chemical where no repackaging of the toxic chemical occurs does not constitute otherwise use or processing of the toxic chemical.” 40 C.F.R. § 372.3.

Factual Allegations

17. EPA alleges that Respondent has violated EPCRA and federal regulations promulgated pursuant to EPCRA, as follows:

18. Respondent is, and at all times referred to herein was, a “person” as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

19. Respondent’s facility, located at 2460 West Bennett Street, Springfield, MO (“Respondent’s facility”), is a “facility” as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and by 40 C.F.R. § 372.3.

20. Respondent’s facility has ten or more “full-time employees” pursuant to Section 313(b)(1)(A) of EPCRA, 42 U.S.C. § 11023(b)(1)(A), and as defined by 40 C.F.R. § 372.3.

21. Respondent’s facility is classified as NAICS Code 325998.

22. Toluene is a listed chemical pursuant to 40 C.F.R. § 372.65 and therefore a “toxic chemical” within the meaning of 40 C.F.R. § 372.3.

23. Triethylamine is a listed chemical pursuant to 40 C.F.R. § 372.65 and therefore a “toxic chemical” within the meaning of 40 C.F.R. § 372.3.

24. During reporting year 2018 the toxic chemical identified in Paragraph 22 was “manufactured, processed, or otherwise used” as those terms are defined by 40 C.F.R. § 372.3 at Respondent’s facility.

25. During reporting year 2018 the toxic chemical identified in Paragraph 23 was “manufactured, processed, or otherwise used” as those terms are defined by 40 C.F.R. § 372.3 at Respondent’s facility.

26. On or about March 29, 2021, EPA sent an information request letter regarding toxic chemical release reporting to Respondent. EPA received a response on or about May 17, 2021.

V. Alleged Violations of Law

27. Complainant hereby states and alleges that Respondent has violated EPCRA and federal regulations promulgated thereunder, as follows:

Count 1

28. Paragraphs 19 through 28 are incorporated by reference as if fully set forth herein.

29. Pursuant to 40 C.F.R. § 372.25, the threshold reporting quantity for “otherwise use” of toluene is 10,000 pounds.

30. During reporting year 2018, Respondent manufactured, processed, or otherwise used approximately 688,648 pounds of toluene.

31. The toxic chemical toluene was manufactured, processed, or otherwise used at Respondent’s facility in excess of the applicable threshold quantities during reporting year 2018.

32. Respondent failed to file a Form R report for toluene with the Administrator of EPA and the State of Missouri by the July 1, 2019, deadline. Upon discovering that the Form R report had not been submitted, Respondent filed the Form R report on or about July 8, 2020.

33. The failure to timely submit a Form R report for toluene is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30.

34. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), it is proposed that a civil penalty be assessed against Respondent for the violations of EPCRA identified above, the amount of which is set forth below.

Count 2

35. Paragraphs 19 through 28 are incorporated by reference as if fully set forth herein.

36. Pursuant to 40 C.F.R. § 372.25, the threshold reporting quantity for “otherwise use” of triethylamine is 10,000 pounds.

37. During reporting year 2018, Respondent manufactured, processed, or otherwise used approximately 13,389 pounds of triethylamine.

38. The toxic chemical toluene was manufactured, processed, or otherwise used at Respondent’s facility in excess of the applicable threshold quantities during reporting year 2018.

39. Respondent failed to file a Form R report for triethylamine with the Administrator of EPA and the State of Missouri by the July 1, 2019, deadline. Upon discovering that the Form R report had not been submitted, Respondent filed the Form R report on or about July 8, 2020.

40. The failure to timely submit a Form R report for triethylamine is a violation of Section 313(a) of EPCRA, 42 U.S.C. § 11023(a), and 40 C.F.R. § 372.30.

41. Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), it is proposed that a civil penalty be assessed against Respondent for the violations of EPCRA identified above, the amount of which is set forth below.

VI. CONSENT AGREEMENT

42. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits that the EPA has jurisdiction over the subject matter alleged in this Agreement;
- b. neither admits nor denies the alleged violations of law stated above;
- c. consents to the assessment of a civil penalty as stated below;
- d. consents to the issuance of any specified compliance or corrective action order;
- e. consents to the conditions specified in this Agreement;
- f. consents to any stated Permit Action;
- g. waives any right to contest the alleged violations of law set forth in Section V of this Agreement; and
- h. waives its rights to appeal the Order accompanying this Agreement.

43. Respondent consents to the issuance of this Consent Agreement Final Order, consents for purposes of settlement to the payment of the civil penalty specified herein, and agrees to comply with the terms of this Consent Agreement and Final Order.

44. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

45. Respondent consents to receiving the filed Consent Agreement and Final Order electronically at the following e-mail addresses: *Stephen.Miller@curiaglobal.com* and *Mariesa.Coppola@curiaglobal.com*.

Penalty Payment

46. Respondent agrees that, in settlement of the claims alleged in this Agreement, Respondent shall pay a civil penalty of fifty-one thousand, eight hundred and ninety dollars and thirty cents (\$51,890.30), which takes into consideration Respondent's cooperation and return to compliance.

47. Respondent shall pay the penalty within thirty (30) days of the effective date of this Final Order. Such payment shall identify Respondent by name and docket number and shall be by cashiers or certified check made payable to the "United States Treasury" and remitted to:

U.S. Environmental Protection Agency, Region 7
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

48. A copy of the check or other information confirming payment shall simultaneously be e-mailed to:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov;

and to:

Katherine Kacsur
kacsur.katherine@epa.gov.

49. Late Payment Provisions. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the date required. Interest will be assessed at a rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b). A charge will be assessed to cover the costs of the debt collection, including processing and handling costs and attorneys' fees. In addition, a non-payment penalty charge of six (6) percent per year, compounded annually, will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid. 31 C.F.R. §§ 901.9(c) and (d).

50. Failure to pay the assessed penalty may result in the referral of this matter to the United States Department of Justice for collection. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury,

pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

Effect of Consent Agreement and Final Order

51. Full payment of the civil penalty proposed in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of EPCRA or any other applicable law and/or regulation administered by the EPA.

52. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in the paragraph directly below.

53. Respondent certifies by signing this Consent Agreement that it is presently in compliance with all requirements of EPCRA and its implementing regulations.

54. Nothing in this Agreement shall be construed as a release from any other action under law and/or regulation administered by EPA. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

55. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

56. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

57. This Consent Agreement and Final Order constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

58. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this Agreement and to legally bind Respondent to it.

59. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the

Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

60. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors, and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Agreement.

61. Penalties paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

COMPLAINANT:

U. S. Environmental Protection Agency

Date: _____ By: _____
Wendy Lubbe
Acting Director
Enforcement and Compliance Assurance Division

Date: _____ By: _____
Katherine Kacsur
Attorney Adviser
Office of Regional Counsel

RESPONDENT:

CURIA MISSOURI, INC.

Date: 03/14/2022

By: _____



Stacie Phillips

Printed Name

General Counsel, Corporate Secretary

Title

CERTIFICATE OF SERVICE

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

kacsur.katherine@epa.gov

Copy via Email to Respondent:

Stephen.Miller@curiaglobal.com

Mariesa.Coppola@curiaglobal.com

Dated this _____ day of _____, _____.

Signed