

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
 Burtin Urethane Corporation)
) EPCRA 09-97-0009
)
 RESPONDENT)

ORDER GRANTING MOTION FOR ACCELERATED DECISION

The complaint in this proceeding, is filed under the authority of Section 325(c) of the Emergency Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11045(c). The U.S. Environmental Protection Agency ("EPA") alleges 19 violations of section 313 of EPCRA, 42 U.S.C. § 11023. The complaint asserts that Burtin Urethane Corporation (Burtin) failed to report, to EPA and the State of California, several chemicals that it processed or otherwise used during 1991-1996, as required by section 313 of EPCRA, 42 U.S.C. § 11023 and 40 CFR Part 372. For these alleged violations, EPA seeks a civil penalty of \$193,548.

In its answer, Burtin admitted the allegations in the complaint and requested a hearing. Based upon Burtin's admissions, EPA filed a motion for accelerated decision as to liability. Burtin does not oppose this motion, but continues to contest the amount of penalty.

EPCRA requires an owner or operator of a facility that has ten or more full-time employees and is classified in Standard Industrial Classification (SIC) Codes 20-39 to complete a toxic chemical release form ("Form R"), to EPA and the State, for chemicals listed in 40 CFR § 372.65, when it manufactures, processes, or otherwise uses chemicals at amounts greater than the specified threshold amounts. 42 U.S.C. § 11023. Ethylene glycol, dichloromethane, methylenebis (phenylisocyanate), diisocyanates, trichlorofluoromethane, and 1,1-Dichloro-1-fluoroethane are all listed at 40 CFR § 372.65.

During 1991-1996, owners or operators were required to submit a Form R, for each listed chemical, for each calendar year, in which it processed greater than 25,000 pounds or otherwise used greater than 10,000 pounds. 42 U.S.C. § 11023(f). For each calendar year, Form Rs must be submitted no later than July 1 of the following year. EPA extended the deadline to report 1995 activities from July 1, 1996, to August 1, 1996. 61 Fed. Reg. 2722 (January 29, 1996).

Burtin admits that it is the owner or operator of a facility, has ten or more full time employees, and is classified in SIC Code 2821. Burtin also admits that it processed greater than 25,000 pounds of ethylene glycol in 1991, 1992, 1993, 1994 and 1995; otherwise used greater than 10,000 pounds of dichloromethane in 1991, 1992, 1993, 1994 and 1995; processed greater than 25,000 pounds of methylenebis (phenylisocyanate) in 1991, 1992, 1993, and 1994; processed greater than 25,000 pounds of diisocyanates in 1995; processed greater than 25,000 pounds of trichlorofluoromethane in 1991 and 1992; and processed greater than 25,000 pounds of 1,1-Dichloro-1-fluoroethane in 1994 and 1995.

Section 313 of EPCRA, 42 U.S.C. § 11023, required Burtin to report this activity to EPA and the State by filing Form Rs for these chemicals before July 1, 1992, July 1, 1993, July 1, 1994, July 1, 1995 and August 1, 1996. Burtin admits that it failed to timely file the required Form Rs.

No material facts are disputed in this matter and Burtin has admitted liability as to all counts in the complaint. EPA's motion for accelerated decision as to liability is, therefore, **granted**.

Carl C. Charneski

Administrative Law Judge

Dated: September 11, 1997

Washington, D.C.

IN THE MATTER OF BURTIN URETHANE CORPORATION, Respondent

Docket No. EPCRA-09-97-0009

Certificate of Service

I certify that the foregoing Order, dated September 11, 1997, was sent this day in the following manner to the below addressees.

Original by Regular Mail to: Mr. Steven Armsey

Regional Hearing Clerk

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Dated: September 12, 1997