

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

901 N. 5TH STREET

KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)	
)	Docket No. EPCRA-07-2007-0001
)	
Stouse, Inc.)	CONSENT AGREEMENT
300 New Century Parkway,)	AND
New Century, Kansas 66031)	FINAL ORDER
)	
Respondent)	

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency (“EPA” or “Complainant”) and Stouse, 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), 22.18(b)(2), and 22.18(b)(3) 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), 22.18(b)(2), and 22.18(b)(3).

I. PRELIMINARY STATEMENT

A. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045, and 40 C.F.R. Part 22.

B. This Consent Agreement and Final Order (CAFO) serves as notice that EPA has reason to believe that Respondent violated EPCRA Section 313, 42 U.S.C. § 11023, and the regulations promulgated thereunder and codified at 40 C.F.R. Part 372, governing the submission of toxic chemical release forms (Form R) by owners and operators of covered facilities.

C. Respondent agrees that EPA has jurisdiction over the subject matter of this CAFO, and Respondent waives any jurisdictional defenses it may have with respect to execution or enforcement of this CAFO.

D. Respondent hereby waives its right to a judicial or administrative hearing, to otherwise contest any issue of law or fact set forth in this CAFO, and its right to appeal the Final Order.

II. EPA FINDINGS OF FACT

A. Respondent is a corporation doing business in the State of Kansas.

B. Respondent is/was the owner or operator of the following facility at the time of the violations alleged herein:

STOUSE INC.
300 NEW CENTURY PARKWAY
NEW CENTURY, KANSAS 66031

C. At the time of the violations alleged herein, Respondent had 10 or more full-time employees at the above facility.

D. At the time of the violations alleged herein, Respondent's facility was properly and primarily classified in Standard Industrial Classification (SIC) Code 2672, which is a covered SIC Code as specified at 40 C.F.R. § 372.22(b).

E. Respondent manufactured, processed, or otherwise used the following chemicals, at the following facility, in the reporting years specified below:

FACILITY	CHEMICAL	REPORTING YEARS
Stouse, Inc. 300 New Century Parkway, New Century, KS 66031	Glycol Ethers	2003, 2004, 2005

F. The chemicals identified above, in Paragraph II.E., are listed at 40 C.F.R. § 372.65 and are therefore subject to EPCRA Section 313.

G. The chemicals identified above, in Paragraph II.E., were manufactured, processed, or otherwise used in excess of the threshold amounts specified at 40 C.F.R. § 372.25, and/or 40 C.F.R. § 372.28.

H. Respondent failed to timely submit a Form R for the chemicals and years specified in Paragraph II.E. to the Administrator of EPA by July 1 of the applicable years.

III. EPA CONCLUSIONS OF LAW

A. EPCRA Section 313 and 40 C.F.R. §§ 372.22 and 372.30, require the owner or operator of a facility to complete and submit a toxic chemical release inventory form (Form R or Form A) to the Administrator of the EPA and/or his designee and to the State in which the subject facility is located by July 1 for the preceding calendar year for each toxic chemical manufactured, processed, or otherwise used in quantities exceeding the established threshold during that preceding calendar year provided the following elements are satisfied:

1. The facility has 10 or more full-time employees; and
2. The facility is in a SIC code, which is defined as follows: major group 10 (except 1011, 1081, 1094); 12 (except 1241); 20-39; 4911, 4931, 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C, 42 U.S.C. § 6921 et seq.); 5169; 5171; and 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); and
3. The facility manufactured, processed, or otherwise used a toxic chemical listed under EPCRA Section 313(c) and 40 C.F.R. § 372.65, in excess of the threshold quantity established under EPCRA Section 313(f) and 40 C.F.R. § 372.25, and/or 40 C.F.R. § 372.28, during the calendar year.

B. As set forth at EPCRA Section 313(f) and 40 C.F.R. § 372.25, the reporting threshold amount for a toxic chemical manufactured or processed at a facility is 25,000 pounds, and the reporting threshold for a toxic chemical otherwise used at a facility is 10,000 pounds.

C. Respondent is, and was at all times relevant to the CAFO, a person as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

D. At the time of the violations alleged herein, Respondent was the owner or operator of the facility identified in Paragraph II.E. as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

E. At the time of the violations alleged herein, Respondent had 10 or more full-time employees at the facility identified in Paragraph II.E., as defined by 40 C.F.R. § 372.3.

F. At the time of the violations alleged herein, Respondent's facility identified in Paragraph II.E. was classified in a covered SIC Code as described at 40 C.F.R. § 372.22.

G. Respondent's facility identified above in Paragraph II.E., otherwise used a chemical listed under EPCRA Section 313(c) and 40 C.F.R. § 372.65, in excess of the applicable threshold quantity established under EPCRA Section 313(f) and 40 C.F.R. § 372.25, and/or 40 C.F.R. § 372.28, during the calendar years specified.

H. Respondent's failure to timely submit complete and accurate Form Rs for the chemicals, reporting years, and facility specified above in Paragraph II.E., by July 1 of the applicable reporting years, is a violation of EPCRA Section 313, and of the requirements of 40 C.F.R. Part 372.

IV. PENALTIES AND FEES

A. Respondent agrees to pay a civil administrative penalty of \$ 10,625 for the violations alleged in Paragraphs II and III in accordance with the terms of this CAFO.

B. Respondent is encouraged to disclose any additional violations of any media not identified in this CAFO through the EPA's Incentives for Self Policing: Discovery, Disclosure, Correction and Prevention of Violations" (Audit Policy), or the EPA's Small Business Compliance Policy (Small Business Policy). Both policies are available on the Internet at:
<http://www.epa.gov/compliance/incentives/auditing/index.html> and
<http://www.epa.gov/compliance/incentives/smallbusiness/index.html>, respectively. Initiating audits in response to this CAFO will not disqualify Respondent under the Audit Policy's requirement for "voluntary Discovery," or "Discovery and Disclosure Independent of Government or Third-Party Plaintiff." However, any future instances of late reporting to the TRI in the next three years will not qualify for penalty relief under either the Audit or Small Business Policies.

V. TERMS OF SETTLEMENT

A. For purposes of this proceeding, Respondent admits that Complainant has jurisdiction over the subject matter of this CAFO.

B. Respondent neither admits nor denies EPA's findings of fact and conclusions of law set forth in this CAFO.

C. The terms of this CAFO constitute a full settlement of this proceeding with respect to the administrative claims alleged in Paragraphs II and III. However, nothing in this CAFO is intended, nor shall it be construed, to operate in any way to resolve any criminal liability of Respondent or its employees or to limit the authority of the United States to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

D. Respondent has read the CAFO and consents to the issuance of the Final Order hereinafter recited, and consents to the payment of the civil penalty as set forth in the Final Order and Paragraph IV of this CAFO.

A. Nothing in this CAFO shall relieve the Respondent from complying with any provision of EPCRA or any other applicable provisions of federal, state, or local law, except as stated herein.

B. Respondent and Complainant agree to bear their own respective costs and attorney's fees.

C. The provisions of the CAFO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns.

D. Respondent certifies by signing this CAFO that, to the best of its knowledge, it is presently in compliance with EPCRA, 42 U.S.C. § 11001 et. seq. and all regulations promulgated thereunder.

E. By his or her signature below, each signatory of this CAFO certifies that he or she is fully authorized by the parties represented to execute this Consent Agreement and to legally bind the parties represented to the terms and conditions of the Consent Agreement and accompanying Final Order.

F. The effect of the settlement described in Paragraph V.D. above is condition upon the accuracy of the Respondent's representations to EPA, as memorialized in Paragraph VI.D. above.

FINAL ORDER

Pursuant to the provisions of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045, and according to the terms of the Consent Agreement set forth above, IT IS HEREBY ORDERED THAT:

1. Respondent, in settlement of this matter, shall pay a civil penalty of \$10,625 on or before thirty (30) days of the effective date of this Order. Payment shall be by cashier's or certified check made payable to the "United States Treasury" and shall be remitted to:

**Regional Hearing Clerk
United States Environmental Protection Agency
Region VII,
c/o Mellon Bank
P.O. Box 371099M,
Pittsburgh, Pennsylvania 15251.**

2. The payment shall reference Docket Number, EPCRA 07-2007-0001 and **In the Matter of Stouse, Inc.** Copies of the check shall be forwarded to:

Demetra O. Salisbury
Office of Regional Counsel
United States Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, Kansas 66101

and

Kathy Robinson
Regional Hearing Clerk
Office of Regional Counsel
United States Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, Kansas 66101

3. Respondent's failure to pay any portion of the civil penalty assessed herein in accordance with the provisions of this Order may result in commencement of a civil action in Federal District Court to recover the total penalty, together with interest thereon at the applicable statutory rate.

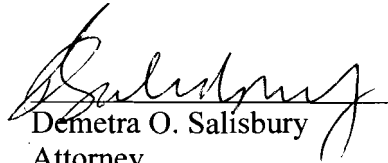
4. The terms of the foregoing Consent Agreement are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply
Regional Judicial Officer.

7. This executed Consent Agreement and Final Order shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas, 66101.

COMPLAINANT:

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By:



Demetra O. Salisbury

Attorney

Office of Regional Counsel

Date:

May 22, 2007

IN THE MATTER OF Stouse, Inc., Respondent
Docket No. EPCRA-07-2007-0001

CERTIFICATE OF SERVICE

I certify 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 hand delivered to
Attorney for Complainant:

Demetra O. Salisbury
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Bruce A. Reed
Chief Operating Officer
300 New Century Parkway
New Century, Kansas 66031

Dated: 5/23/07


Kathy Robinson
Hearing Clerk, Region 7