



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129

Phone 800-227-8917


<http://www.epa.gov/region08>

DOCKET NO.: EPCRA-08-2009-0001

IN THE MATTER OF:)	
)	
CIRCLE GRAPHICS, INC.)	FINAL ORDER
120 9 TH Avenue, Unit B)	
Longmont, CO 80501)	
)	
RESPONDENT)	

Pursuant to 40 C.F.R. §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 Respondents of this Consent Agreement and Final Order.

SO ORDERED THIS 24th DAY OF February, 2009.



Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8
Docket No. EPCRA-08-2009-0001

IN THE MATTER OF:)	
)	
CIRCLE GRAPHICS, INC.)	COMPLAINT AND CONSENT AGREEMENT
120 9 th Ave. Unit B)	(SIMULTANEOUS AND COMBINED)
Longmont, Colorado 80501)	
)	
Respondent)	
)	

COMPLAINT

GENERAL ALLEGATIONS

1. This civil administrative enforcement action ("Complaint") is authorized by Congress in section 325(c) of Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. § 11045, also known as the Emergency Planning and Community Right-To-Know Act of 1986 ("EPCRA"). United States Environmental Protection Agency (EPA) regulations authorized by the statute are set out in part 370 of title 40 of the Code of Federal Regulations. The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits ("Rules of Practice")," 40 CFR part 22, a copy of which is enclosed.
2. The undersigned EPA officials have been properly delegated the authority to issue this action.
3. Circle Graphics, Inc., ("Respondent") is a "person" as that term is defined by section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
4. Respondent is an owner or operator of a "facility" as that term is defined in section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and which is located at 120 9th Avenue Unit B, Longmont, CO 80501.
5. On September, 30 2008, Mr. David Cobb, an authorized and properly credentialed EPA inspector, inspected Respondent's facility in Longmont, Colorado.

6. Respondent consented to EPA's inspection conducted on September 30, 2008, at Respondent's facility.
7. At all times relevant to this matter, the facility processed a "toxic chemical" as defined in section 329(10) of EPCRA, 42 U.S.C. § 11049(10).

FINDING OF VIOLATIONS

(FAILURE TO FILE EPA FORM R TO EPA AND TO COLORADO SERC AS REQUIRED UNDER SECTION 313 OF EPCRA FOR TOXIC CHEMICALS OTHERWISE USED IN EXCESS OF THRESHOLD FOR CALENDAR YEARS 2005, 2006, and 2007)

8. Paragraphs 1 - 7 of the GENERAL ALLEGATIONS are incorporated by this reference and set out as if fully stated herein. Pursuant to sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated the Toxic Chemical Release Reporting: Community Right-to-Know Rule, 40 C.F.R. Part 372. Section 313(b) of EPCRA, 40 C.F.R. § 372.22, addresses owners and operators of facilities that have 10 or more full-time employees, are in Standard Industrial Classification Codes 20 through 39, and manufactured, processed, or otherwise used a toxic chemical listed under section 313(c) of EPCRA, 40 C.F.R. § 372.65, in quantities exceeding the appropriate threshold as set forth in 40 C.F.R. § 372.25. Under section 313(b) of EPCRA, owners and operators are required to annually submit a Toxic Chemical Release Inventory Reporting Form, EPA Form 9350-1 (hereinafter "Form R or Form A"), for each toxic chemical listed under section 313(c) of EPCRA, 40 C.F.R. § 372.65, that was manufactured, processed, or otherwise used during the preceding calendar year in quantities exceeding the established toxic chemical thresholds.
9. Respondent's facility has 10 or more "full-time employees" as that term is defined by 40 C.F.R. § 372.3.
10. Respondent's facility is in SIC code 20-39. More specifically, respondent operates the Longmont facility which is in NAICS code 323 ("Printing and related support activities").
11. The chemical category certain glycol ethers N230 CAS # 112-07-2 are toxic chemicals listed under 40 C.F.R. § 372.65, for which reporting is required pursuant to 40 C.F.R. § 372.22, if it is manufactured, processed, or otherwise used in quantities exceeding the appropriate threshold as set forth in 40 C.F.R. § 372.25.
12. Pursuant to 40 C.F.R. § 372.25, the appropriate reporting threshold for a chemical otherwise used is 10,000 lbs.

13. During the Calendar Years 2005, 2006, and 2007 Respondent otherwise used in excess of 10,000 lbs of certain glycol ethers for each respective calendar year. Respondent was required to file EPA Form R (Form 9350-1) to the Administrator and the State of Colorado pursuant to 42 U.S.C.A. § 11023, and 40 C.F.R. §§ 372.30 and 372.65 for this category of chemicals on or before July 1, 2006, 2007, and 2008, respectively.
14. Respondent failed to file with the EPA Region 8 EPA Form R or Form A annually with the Administrator and to the State of Colorado for certain glycol ethers otherwise used for the calendar years 2005, 2006, and 2007 by July 1, 2006, 2007 and 2008, respectively.
15. EPA therefore alleges violations of the requirements of reporting under section 313 of EPCRA, 42 U.S.C. § 11023 and the assessment of penalties under section 328 of EPCRA, 42 U.S.C. § 11048

CONSENT AGREEMENT

16. Respondent admits the jurisdictional allegations and neither admits nor denies the factual allegations stated above.
17. Respondent waives his/her right to a hearing before any tribunal, to contest any issue of law or fact set forth in this Complaint and Consent Agreement.
18. This Complaint and Consent Agreement, upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, 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 agreement. This Complaint and Consent Agreement contains all terms of the settlement agreed to by the parties.
19. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c), as amended, and 40 C.F.R. § 372.18, authorizes EPA to assess a civil penalty of up to \$25,000 for each violation of section 313. For purposes of determining the amount of any civil penalty to be assessed, the EPA is required to consider, in addition to such other factors as justice may require, to the extent known, the nature, circumstances, extent and gravity of the violations alleged, any of Respondent's history of prior violations of EPCRA, or lack thereof, and degree of culpability, and any voluntary disclosure, or lack thereof, pursuant to the "ENFORCEMENT RESPONSE POLICY FOR SECTION 313 OF THE EMERGENCY PLANNING COMMUNITY RIGHT-TO-KNOW ACT (1986), AND SECTION 6607 OF THE POLLUTION PREVENTION ACT (1990)," Amended 1996, 1997, and 2001 as issued by the Office of Compliance and Monitoring, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, and pursuant to Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986.
20. Based on the factors listed in paragraph 13 and Respondent's acknowledgement that it is

in full compliance with the requirements of EPCRA, EPA has determined that an appropriate civil penalty to settle this action is **THIRTEEN THOUSAND FOUR HUNDRED AND FORTY DOLLARS (\$13,440)**.

21. Respondent consents, for the purpose of settlement, to the issuance of a Final Order in this matter and agrees to pay the civil penalty cited in the foregoing paragraph. Respondent further consents, for the purpose of settlement, to pay the civil penalty as follows:

Payment is due within 60 calendar days from the date written on a Final Order, issued by the Regional Judicial Officer, which adopts this Complaint and Consent Agreement. If the due date falls on a weekend or legal Federal holiday, the due date is the next business day. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the 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:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:
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"

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101
Contact Natalie Pearson
314-418-4087

ACH (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 301-807-6548
ABA = 051036706
Transaction Code 22-checking
Environmental Protection Agency
Account 310006
CTX Format

On Line Payment:

This payment option can be accessed from the information below:
www.pay.gov
Enter sfol.1 in the search field
Open form and complete required fields

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

David Cobb, 8ENF-AJ
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

and

Tina Artemis, SRC
Regional Hearing Clerk
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

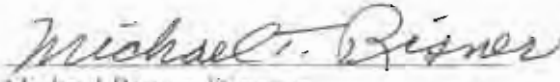
22. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (That is, on the 1st late day, 30 days of interest accrues.)
23. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 61st day from the date of the final consent order; and each subsequent thirty-day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 60 days of the due date (that is, the 120th day from the date the final consent order is signed). Payments are first applied to handling charges, 6% penalty interest, and late interest; then any balance is applied to the outstanding principal amount.
24. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.
25. Nothing in this Complaint and Consent Agreement shall relieve Respondent of the duty to comply with the EPCRA and its implementing regulations.
26. Failure by Respondent to comply with any term of this Complaint and Consent Agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and such other relief as may be appropriate.
27. Nothing in this Complaint and Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Complaint and Consent Agreement.
28. If the undersigned is a representative of the Respondent, he/she certifies that he/she is fully authorized to enter into the terms and conditions of this Complaint and Consent Agreement and to bind the parties he/she represents to the terms and conditions of this Complaint and Consent Agreement.
29. The parties agree to submit this Complaint and Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a Final Order.
30. Each party shall bear its own costs and attorney fees in connection with this matter.
31. This Complaint and Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the complaint portion of this Complaint and Consent Agreement.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Office of Enforcement, Compliance, and
Environmental Justice
Complainant.

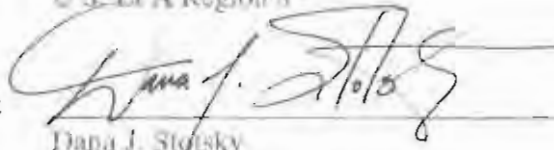
Date: 2/19/09

By: 
Cynthia I. Reynolds, Director
Technical Enforcement Program
U.S. EPA Region 8

Date: 2/19/09

By: 
Michael Risner, Director
Legal Enforcement Program
U.S. EPA Region 8

Date: 2/17/2009

By: 
Dana J. Stotsky
Senior Enforcement Attorney
Legal Enforcement Program
U.S. EPA Region 8

CIRCLE GRAPHICS, INC

Respondent.

Date: 2/16/09

By: 

Printed Name: HANK RIDLESS

Title: PRESIDENT

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMPLAINT, CONSENT AGREEMENT/FINAL ORDER** in the matter of **CIRCLE GRAPHICS, INC.; DOCKET NO.: EPCRA-08-2009-0001**; these documents were filed with the Regional Hearing Clerk on February 24, 2009.

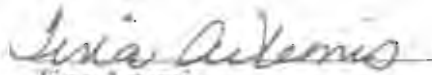
Further, the undersigned certifies that a true and correct copies of the documents were delivered to Dana Stotsky, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on February 24, 2009, to:

Hank Ridless, President
Circle Graphics, Inc.
Longmont, CO 80501

E-mailed to:

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

February 24, 2009


Tina Artemis
Paralegal/Regional Hearing Clerk

