



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

May 24, 2018

Via overnight mail

Lisa M. Bruderly, Esquire
Babst Calland
Two Gateway Center
603 Stanwix St., 6th floor
Pittsburgh, PA 15222

Re: **In the Matter of Catalyst Energy, Inc. and KC Midstream Solutions, LLC**
U.S. EPA Docket Nos. EPCRA-03-2018-0071; CAA-03-2018-0071

Dear Ms. Bruderly,

Enclosed please find a copy of the filed Consent Agreement and Final Order, along with a certificate of service.

Sincerely yours,

A handwritten signature in cursive script that reads "Cynthia T. Weiss".

Cynthia T. Weiss
Senior Assistant Regional Counsel

Enclosures

cc: Mary Hunt (3HS61)
Perry Pandya (3HS61)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN THE MATTER OF:

KC Midstream Solutions, LLC
424 South 27th Street, Suite 304
Pittsburgh, PA 15203,

Catalyst Energy, Inc.
424 South 27th Street, Suite 304
Pittsburgh, PA 15203,

Respondents.

Irishtown Gas Processing Plant
242 Sand Road
Lewis Run, McKean County, PA 16738,

Endeavor Gas Processing Plant
101 Queen Pumping Station Road
Tidioute, Forest County, PA 16321,

Kane Gas Processing Plant
34 Hardwood Lane
Kane, McKean County, PA 16426,

Facilities.

EPA Docket Nos. EPCRA-03-2018-0071;
CAA-03-2018-0071

U.S. EPA-REGION 3-RHC
FILED-24MAY2018pm4:43

Proceeding Pursuant to
Sections 311, 312 and 325 of the
Emergency Planning and Community
Right-to-Know Act, 42 U.S.C. §§ 11021,
11022, 11045, and Sections 112(r) and
113 of the Clean Air Act, as amended,
42 U.S.C. §§ 7412(r) and 7413.

CONSENT AGREEMENT

STATUTORY AUTHORITY

This Consent Agreement is proposed and entered into under the authority vested in the President of the United States by Section 325 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11045, and Section 113(d) of the Clean Air Act, as amended (the "CAA"), 42 U.S.C. § 7413(d). The President has delegated this authority to the Administrator of the U.S. Environmental Protection Agency ("EPA"), who has, in turn, delegated it to the Regional Administrator of EPA, Region III. The Regional Administrator has re-delegated these authorities to the Director of the Hazardous Site Cleanup Division, EPA

Region III (“Complainant”). Further, this Consent Agreement is proposed and entered into under the authority provided by the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits” (“Consolidated Rules of Practice”), 40 C.F.R. Part 22.

The parties agree to the commencement and conclusion of this cause of action by issuance of this Consent Agreement and Final Order (referred to collectively herein as “CA/FO”) as prescribed by the Consolidated Rules of Practice, pursuant to 40 C.F.R. § 22.13(b), 22.18(b)(2) and (3), and having consented to the entry of this CA/FO, agree to comply with the terms of this CA/FO.

JURISDICTION

1. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2) and (8).
2. The Regional Judicial Officer has the authority to approve this settlement and conclude this proceeding pursuant to 40 C.F.R. § 22.4(b) and 22.18(b)(3).
3. For the purpose of this proceeding, Respondent KC Midstream Solutions, LLC, and Respondent Catalyst Energy, Inc., (collectively “Respondent”) admit to the jurisdictional allegations in this Consent Agreement and agree not to contest EPA’s jurisdiction with respect to the execution or enforcement of this Consent Agreement.
4. For the purpose of this proceeding, and with the exception of Paragraph 3, above, Respondents neither admit nor deny the following factual allegations and conclusions of law, but expressly waive their rights to contest said allegations in this proceeding only.

FINDINGS OF FACT

5. Respondent KC Midstream Solutions, LLC, is a limited liability company organized in the State of Delaware during 2015, with its principal place of business located at 424 South 27th Street, Pittsburgh, Pennsylvania.
6. Respondent Catalyst Energy, Inc., is a corporation formed in the State of Delaware during 1992, with its principal place of business located at 424 South 27th Street, Pittsburgh, Pennsylvania. Respondent KC Midstream Solutions, LLC, is a wholly-owned subsidiary of Catalyst Energy, Inc.
7. From September 2001 until November 2015, Respondent Catalyst Energy, Inc., owned and operated a natural gas processing plant located at 242 Sand Road, in Lewis Run, McKean County, Pennsylvania (the “Irishtown Facility”).
8. From November 2015 to the present, Respondent KC Midstream Solutions, LLC, has owned and operated the Irishtown Facility.

9. From 2008 until November 2015, Respondent Catalyst Energy, Inc., owned and operated a natural gas processing plant located 101 Queen Pumping Station Road, in Tidioute, Forest County, Pennsylvania (the “Endeavor Facility”), and a natural gas processing plant located at 34 Hardwood Lane, in Kane, McKean County, Pennsylvania (the “Kane Facility”).

10. From November 2015 to the present, Respondent KC Midstream Solutions, LLC, has owned and operated the Endeavor Facility.

11. From November 2015 to March 2017, Respondent KC Midstream Solutions, LLC, owned and operated the Kane Facility.

12. On September 11, 2015, EPA sent Respondent Catalyst Energy, Inc., a request for information pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, and Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. § 9604(e) (“Information Request 1”). Respondent Catalyst Energy, Inc., submitted written responses to the information request on November 11, 2015 and February 29, 2016, and later emailed additional responsive information to EPA.

13. On January 5, 2016, EPA sent Respondent Catalyst Energy, Inc. a request for information pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, and Section 308 of the Clean Water Act, 33 U.S.C. § 1318 (“Information Request 2”). Respondent Catalyst Energy, Inc. submitted a response to this information request dated January 29, 2016, and later emailed additional responsive information to EPA.

14. EPA conducted an inspection of the Irishtown Facility, the Endeavor Facility and the Kane Facility on October 18-19, 2016, to determine Respondent Catalyst Energy, Inc.’s and Respondent KC Midstream Solutions, LLC’s compliance with Section 112(r)(1) and (7) of the CAA, 42 U.S.C. § 7412(r)(1) and (7), and the Chemical Accident Prevention Provisions at 40 C.F.R. Part 68 (“CAA Inspection”).

15. Each of the Facilities receives field gas from nearby wells via gathering lines, mechanically removes naturally occurring liquids, compresses the gas, removes water, extracts natural gas liquids via a propane refrigeration process, injects the processed natural gas into an interstate gas pipeline system, and stores naturally occurring liquids in unpressurized condensate tanks for transport by truck. Produced natural gas liquids are stored in pressurized tanks for transport by truck.

COUNTS 1-3
FINDINGS OF FACT RELATED TO THE VIOLATION
OF SECTION 311 OF EPCRA

16. The factual allegations contained in Paragraphs 5 through 15 of this CA/FO are incorporated by reference herein as though fully set forth at length.

17. Section 311 of EPCRA, 42 U.S.C. § 11021, as implemented by 40 C.F.R. Part 370, requires an owner or operator of a facility required to prepare or have available a Material Safety Data Sheet/Safety Data Sheet (“MSDS” or “SDS”) for a hazardous chemical in accordance with the Occupational Safety and Health Administration (“OSHA”) Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200, and at which facility is present at any one time a hazardous chemical (including, but not limited to, a hazardous chemical which also qualifies as an extremely hazardous substance (“EHS”)) in a quantity equal to or greater than its applicable minimum threshold level for reporting (“MTL”) or threshold planning quantity (“TPQ”) established by 40 C.F.R. § 370.10, to submit either MSDSs for, or a list identifying, those hazardous chemicals to the appropriate state emergency response commission (“SERC”), local emergency planning committee (“LEPC”), and local fire department with jurisdiction over the facility, on or before October 17, 1990, or within three months after meeting the MTL or TPQ.

18. Section 325(c)(2) of EPCRA, 42 U.S.C. § 11045(c)(1), as amended by EPA’s 2016 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 (“DCIA”), 31 U.S.C. § 3701, and the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 28 U.S.C. § 2461 note, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, section 701 of Public Law 114-74, 129 Stat. 599 (Nov. 2, 2015), provides for the assessment of civil penalties for violations of Section 311 of EPCRA, 42 U.S.C. § 11021, in amounts up to \$16,000 per violation for violations occurring from January 12, 2009 through November 2, 2015, and \$22,363 per violation for violations occurring after November 2, 2015 and assessed on or after January 15, 2018.

19. Respondent Catalyst Energy, Inc.’s response to Information Request 1 indicated that 323,700 pounds of a hydrocarbon mixture were present in two 30,000-gallon bullet tanks at the Irishtown Facility during each of the calendar years 2013, 2014 and 2015, based on the capacity of the bullet tanks.

20. Respondent Catalyst Energy, Inc.’s response to EPA’s information request indicated that approximately 162,000 pounds of a hydrocarbon mixture were present in one 30,000-gallon bullet tank at the Endeavor Facility and at the Kane Facility during each of the calendar years 2013, 2014 and 2015, based on the capacity of the bullet tank. However, Respondent KC Midstream Solutions, LLC, later clarified that the Endeavor Facility and the Kane Facility never stored more than one-half of the capacity of the bullet tank; therefore, according to Respondent KC Midstream Solutions, LLC, the maximum amount of hydrocarbon mixture stored at the Endeavor Facility and at the Kane Facility was 81,000 pounds.

21. Respondent Catalyst Energy, Inc.’s response to Information Request 1 indicated that an SDS, or a list identifying the hazardous chemical, was not submitted to the SERC, the LEPC or the local fire department within 90 days of the chemical being present in amounts exceeding the 10,000-pound reporting threshold at any of the three Facilities.

22. According to information provided to EPA by Respondent Catalyst Energy, Inc., on or about January 6, 2016, Respondent Catalyst Energy, Inc. submitted Chemical Inventory Forms to the appropriate SERC, LEPC, and local fire department with jurisdiction over the three Facilities. The forms listed a hydrocarbon mixture in the list of hazardous chemicals present at the three Facilities during calendar years 2013, 2014 and 2015.

23. The SERC for the Irishtown Facility, the Endeavor Facility and the Kane Facility is Commonwealth of Pennsylvania, Department of Labor and Industry, Bureau of PENNSAFE, P.O. Box 68571 in Harrisburg, Pennsylvania.

24. The LEPC for the Irishtown and Kane Facilities is the McKean County LEPC, at 17175 Route 6, in Smethport, Pennsylvania. The LEPC for the Endeavor Facility is the Forest County LEPC, at 526 Elm Street in Tionesta, Pennsylvania.

25. The local fire department for the Irishtown and Kane Facilities is the Lafayette Township Volunteer Fire Department, located at 3 Bradford Gun Club Road, in Bradford, Pennsylvania. The local fire department for the Endeavor Facility is the West Hickory Volunteer Fire Department, located in West Hickory, Pennsylvania.

26. During the time Respondent Catalyst Energy, Inc. operated the three Facilities, Respondent Catalyst Energy, Inc. failed to submit to the appropriate SERC, LEPC, and local fire department either an SDS for the hydrocarbon mixture, or a list identifying the hydrocarbon mixture as present at the Facility in quantities equal to or exceeding their respective MTLs, no later than three (3) months after the chemicals were present at each Facility in an amount equal to or greater than its MTL.

**CONCLUSIONS OF LAW RELATED TO THE
VIOLATIONS OF SECTION 311 OF EPCRA**

27. The findings of fact contained in Paragraphs 5 through 26 of this CA/FO are incorporated by reference herein as though fully set forth at length.

28. Respondent Catalyst Energy, Inc., was the owner and operator of each Facility within the meaning of Section 311 of EPCRA, 42 U.S.C. § 11021, for the following periods: September 2001-November 2015 (Irishtown); July 2008-November 2015 (Endeavor); February 2008-November 2015 (Kane).

29. As a corporation, Respondent Catalyst Energy, Inc., is a "person" as defined by Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), and its regulations, 40 C.F.R. § 370.66.

30. Each of the Facilities is a "facility" as defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and its regulations, 40 C.F.R. § 370.66.

31. At each of the Facilities, Respondent Catalyst Energy, Inc., was engaged in a business where chemicals are either used, distributed, or are produced for use or distribution.

32. At each of the Facilities, Respondent Catalyst Energy, Inc., was an “employer” as that term is defined at 29 C.F.R. § 1910.1200(c).

33. At each of the Facilities, Respondent Catalyst Energy, Inc., was the owner or operator of a facility that is required to prepare or have available MSDSs/SDSs for the hazardous chemicals listed above under the OSHA Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200.

34. Hydrocarbon mixture is a “hazardous chemical” as defined by Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 40 C.F.R. § 370.66.

35. Pursuant to 40 C.F.R. § 370.10, the MTL for hydrocarbon mixture is 10,000 pounds.

36. Respondent Catalyst Energy, Inc., was, during its period of operation of each of the three Facilities, required to submit to the SERC, LEPC and local fire department either the MSDS/SDS for the hydrocarbon mixture, or a list identifying the hydrocarbon mixture as being present at each of the Facilities, no later than three (3) months after the chemical was present at each of the three Facilities in an amount equal to or greater than its MTL.

37. Respondent Catalyst Energy, Inc.’s failure to submit to the SERC, LEPC, and local fire department either an MSDS/SDS for the hydrocarbon mixture, or a list identifying the hydrocarbon mixture as present at each of the three Facilities in quantities equal to or exceeding its MTL, no later than three (3) months after the chemical was present at the respective Facility in an amount equal to or greater than its MTL, constitutes three violations (one violation corresponding to each Facility) of Section 311 of EPCRA, 42 U.S.C. § 11021; the three violations are, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

COUNTS 4-9
FINDINGS OF FACT RELATED TO THE
VIOLATIONS OF SECTION 312 OF EPCRA

38. The factual allegations contained in Paragraphs 5 through 37 of this CA/FO are incorporated by reference herein as though fully set forth at length.

39. Section 312 of EPCRA, 42 U.S.C. § 11022, as implemented by 40 C.F.R. Part 370, requires the owner or operator of a facility required to prepare or have available an MSDS for a hazardous chemical in accordance with OSHA’s Hazard Communication Standard, 29 U.S.C. §§ 651 *et seq.*, and 29 C.F.R. § 1910.1200, and at which facility a hazardous chemical (including, but not limited to, a hazardous chemical which also qualifies as an EHS) is present at any one time during a calendar year in a quantity equal to or greater than its applicable MTL or TPQ to submit on or before March 1, 1988, and by March 1st of each year thereafter, a completed Chemical Inventory Form identifying the hazardous chemical and providing the information described in Section 312(d) of EPCRA, 42 U.S.C. § 11022(d), to the appropriate SERC, LEPC, and local fire department with jurisdiction over the facility.

40. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), as amended by EPA's 2016 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701, and the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 28 U.S.C. § 2461 note, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, section 701 of Public Law 114-74, 129 Stat. 599 (Nov. 2, 2015), provide for the assessment of civil penalties for, provides for the assessment of civil penalties for violations of Section 312 of EPCRA, 42 U.S.C. § 11022, in amounts up to \$37,500 per violation for violations occurring from January 12, 2009 through November 2, 2015, and \$55,907 per violation for violations occurring after November 2, 2015 and assessed on or after January 15, 2018.

41. Respondent Catalyst Energy, Inc., had present at each of the three Facilities during calendar years 2013 and 2014, one chemical, a hydrocarbon mixture, in a quantity equal to or exceeding its MTL, 10,000 pounds.

42. Respondent Catalyst Energy, Inc. did not submit Chemical Inventory Forms for any of the three Facilities for calendar years 2013 and 2014, identifying the hydrocarbon mixture as present at the respective Facility to the SERC, LEPC and local fire department with jurisdiction over the particular Facility until January 6, 2016.

**CONCLUSION OF LAW RELATED TO THE
VIOLATIONS OF SECTION 312 OF EPCRA**

43. From March 1, 2013 until November 2015, when it ceased operating each of the Facilities, Respondent Catalyst Energy, Inc., was in violation of the requirement to timely submit to the SERC, LEPC and local fire department with jurisdiction over the particular Facility a complete and accurate Chemical Inventory Form for each of the calendar years 2013 and 2014 identifying the total quantity of hydrocarbon mixture present at the particular Facility during each calendar year.

44. Respondent Catalyst Energy, Inc.'s failure to timely submit to the SERC, LEPC, and local fire department with jurisdiction over the Irishtown Facility, Endeavor Facility, and Kane Facility, respectively, a complete and accurate Chemical Inventory Form for the particular Facility for each of the calendar years 2013 and 2014 constitutes six violations (two violations corresponding to each Facility) of Section 312 of EPCRA, 42 U.S.C. § 11022; the violations are, therefore, subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

**FINDINGS OF FACT RELATED TO THE
VIOLATIONS OF SECTION 112(r)(7) OF THE CLEAN AIR ACT**

45. The findings of fact and conclusions of law contained in Paragraphs 1 through 44 of this CA/FO are incorporated by reference herein as though fully set forth at length.

46. On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990. The Clean Air Act Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r).

47. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. The list of regulated substances can be found in 40 C.F.R. § 68.130.

48. On June 20, 1996, EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the CAA. The regulations require owners and operators of stationary sources to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program. The risk management program is described in a risk management plan that must be submitted to EPA. It must include a hazard assessment to assess the potential effects of an accidental release of any regulated substance, a program for preventing accidental releases of hazardous substances, and a response program providing for specific actions to be taken in response to an accidental release of a regulated substance, so as to protect human health and the environment.

49. Sections 113(a) and (d) of the CAA, 42 U.S.C. § 7413(a) and (d), as amended by EPA's 2016 Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, promulgated in accordance with the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701, and the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 28 U.S.C. § 2461 note, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, section 701 of Public Law 114-74, 129 Stat. 599 (Nov. 2, 2015), provide for the assessment of civil penalties for violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in amounts up to \$37,500 per day per violation for violations occurring from January 12, 2009 through November 2, 2015, and in amounts up to \$46,192 per day per violation for violations that occurred after November 2, 2015 and assessed on or after January 15, 2018.

50. EPA and the United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

51. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), defines "stationary source," as "any buildings, structures, equipment, installations, or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur."

52. The regulations at 40 C.F.R. § 68.3 define “threshold quantity” as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

53. The regulations at 40 C.F.R. § 68.3 define “regulated substance” as any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), in 40 C.F.R. § 68.130.

54. The regulations at 40 C.F.R. § 68.3 define “process” as any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

55. Under 40 C.F.R. § 68.10, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process must comply with the requirements of Part 68 by no later than the latest of the following dates: (a) June 21, 1999; (b) three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130; or (c) the date on which a regulated substance is first present above a threshold quantity in a process.

56. Each process in which a regulated substance is present in more than a threshold quantity (“covered process”) is subject to one of three risk management programs. Program 1 is the least comprehensive, and Program 3 is the most comprehensive. Pursuant to 40 C.F.R. § 68.10(b), a covered process is subject to Program 1 if, among other things, the distance to a toxic or flammable endpoint for a worst-case release assessment is less than the distance to any public receptor. Under 40 C.F.R. § 68.10(d), a covered process is subject to Program 3 if the process does not meet the eligibility requirements for Program 1 and is either in a specified NAICS code or subject to the Occupational Safety and Health Administration (“OSHA”) process safety management (“PSM”) standard at 29 C.F.R. § 1910.119. Under 40 C.F.R. § 68.10(c), a covered process that meets neither Program 1 nor Program 3 eligibility requirements is subject to Program 2.

57. Forty C.F.R. § 68.12 mandates that the owner or operator of a stationary source subject to the requirements of Part 68 submit a Risk Management Plan (“RMP”) to EPA, as provided in 40 C.F.R. § 68.150. The RMP documents compliance with Part 68 in a summary format. For example, the RMP for a Program 3 process documents compliance with the elements of a Program 3 Risk Management Program, including 40 C.F.R. Part 68, Subpart A (including General Requirements and a Management System to Oversee Implementation of RMP); 40 C.F.R. Part 68, Subpart B (Hazard Assessment to Determine Off-Site Consequences of a Release); 40 C.F.R. Part 68, Subpart D (Program 3 Prevention Program); and 40 C.F.R. Part 68, Subpart E (Emergency Response Program).

58. According to information provided by Respondent Catalyst Energy, Inc., as of at least September 2008, the quantity of liquid petroleum gas (“LPG”), a hydrocarbon mixture, stored at each of the three Facilities exceeded 10,000 pounds.

59. The threshold quantity for a mixture of flammable substances containing regulated substances at a concentration greater than one percent is 10,000 pounds, pursuant to 40 C.F.R. § 68.115(b)(2) and 68.130, Table 3. Pursuant to 40 C.F.R. § 68.115(b)(2), the total quantity of a mixture is counted when determining whether more than a threshold quantity of a listed substance is present in a process when the mixture contains greater than one percent of a regulated substance.

60. According to the Respondents, the LPG at each of the Facilities consists of a mixture of naturally-occurring substances, including, but not limited to, the following flammable substances: propane (Chemical Abstract Service (“CAS”) No. 74-98-6), pentane (CAS No. 109-66-0), butane (CAS No. 106-97-8), and isobutane (CAS No. 75-28-5), each of which is a listed hazardous chemical pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, Table 3. The concentrations of propane, butane, isobutane and pentane in the LPG are greater than one percent each.

COUNT 10
FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 112(r) OF THE CAA – IRISHTOWN FACILITY

61. According to information provided by Respondent Catalyst Energy, Inc., the company began operating the Irishtown Facility on or before September 2001, and as of January 15, 2002, the quantity of liquid petroleum gas (“LPG”), a hydrocarbon mixture, stored at the Irishtown Facility exceeded the threshold quantity of 10,000 pounds.

62. At the time of the CAA Inspection, EPA inspectors observed that the process equipment at the Irishtown Facility consisted of two main compressors, two refrigeration compressors, two 30,000-gallon bullet aboveground storage tanks (“ASTs” or “tanks”) storing LPG, seven ASTs containing a mixture of condensate, water, lubricating oil, ethylene glycol and triethylene glycol (four 8,820-gallon ASTs, one 4,200-gallon AST and two 300-gallon ASTs), and one 1,000-gallon waste oil AST containing used lube oil.

63. Respondent Catalyst Energy, Inc.’s response to EPA’s Information Request 2 indicated that 323,000 pounds of LPG were present in two 30,000-gallon bullet tanks at the Irishtown Facility during each of the calendar years 2013, 2014 and 2015, based on the capacity of the bullet tanks.

64. EPA has determined that more than a threshold quantity of a regulated substance is present in a process, namely natural gas processing, at the Irishtown Facility.

65. At the time of the CAA Inspection, EPA inspectors observed that the Irishtown Facility had aboveground storage tanks containing condensate, which EPA determined

constitutes a Class IA or IB flammable liquid according to National Fire Protection Association 30, Flammable and Combustible Liquids Code (2012 Edition).

66. The quantity of LPG being stored at the Irishtown Facility exceeded 10,000 pounds from January 2002 to the present.

67. Respondent Catalyst Energy, Inc., handled and/or stored at the Irishtown Facility more than 10,000 pounds of LPG, the threshold quantity of a regulated substance in a process from January 2002 to November 2015.

68. Respondent KC Midstream Solutions, LLC, handled and/or stored at the Irishtown Facility more than 10,000 pounds of LPG, the threshold quantity of a regulated substance in a process from November 2015 to the present.

69. EPA determined that the natural gas processing at the Irishtown Facility is subject to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the Program 3 requirements of the RMP Regulations.

70. Respondent Catalyst Energy, Inc. did not submit an RMP for the Irishtown Facility in January 2002.

71. Respondent KC Midstream Solutions, LLC did not submit an RMP for the Irishtown Facility when it became the owner and operator of the Facility in November 2015.

72. On June 23, 2016, Respondent Catalyst Energy, Inc. emailed an RMP for the Irishtown Facility to an EPA Risk Management Coordinator, in further response to EPA's September 11, 2015 Information Request 2. On August 23, 2016, Respondent Catalyst Energy, Inc., submitted the initial RMP for the Irishtown Facility to EPA electronically via RMP* eSubmit, and on October 3, 2016, Respondent Catalyst Energy, Inc. resubmitted the RMP for the Irishtown Facility to EPA.

73. The Irishtown Facility operated as a natural gas processing plant without an RMP from 2002 until August 2016, when Respondent Catalyst Energy, Inc. emailed an RMP to EPA.

74. EPA found that the CAA Inspection and EPA's review of submitted information revealed the following observations relating to the process at the Irishtown Facility at the time of the CAA Inspection in 2016:

- a. Respondent had not adequately compiled process safety information, with the exception of one incomplete block flow diagram, as required by 40 C.F.R. § 68.65;
- b. Respondent had not conducted a process hazard analysis, as required by 40 C.F.R. § 68.67;

- c. Respondent had not prepared written operating procedures, as required by 40 C.F.R. § 68.69;
- d. Respondent had not provided adequate training to its operators, as required by 40 C.F.R. § 68.71;
- e. Respondent had not adequately complied with mechanical integrity requirements, as required by 40 C.F.R. § 68.73;
- f. Respondent had not adequately complied with management of change requirements, as required by 40 C.F.R. § 68.75;
- g. Respondent had not adequately conducted a pre-startup review, as required by 40 C.F.R. § 68.77;
- h. Respondent had not conducted any compliance audits, as required by 40 C.F.R. § 68.79;
- i. Respondent had not implemented a formal employee participation program, as required by 40 C.F.R. § 68.83;
- j. Respondent did not issue written hot work permits, as required by 40 C.F.R. § 68.85; and
- k. Respondent had not adequately complied with safety and training obligations regarding contractors, as required by 40 C.F.R. § 68.87.

75. EPA inspectors also determined that Respondent had not adequately coordinated with the local emergency responders for the Irishtown Facility in compliance with the emergency response provisions of 40 C.F.R. Part 68, Subpart E, applicable to Program 3 facilities.

76. The RMP Regulations require owners and operators to comply with process safety information requirements at 40 C.F.R. § 68.65(d)(1)(vi) and (d)(2), *i.e.* to compile process safety information pertaining to design codes and standards relevant to the equipment and to document that the equipment in the process complies with “recognized and generally accepted good engineering practices.” EPA identified a number of issues that it considered to be problematic at the Irishtown Facility with regard to compliance with “recognized and generally accepted good engineering practices” at the time of the inspection, as set forth in Paragraphs 77 through 84, below:

77. *Insufficient Distance between LPG Tanks and Other Equipment.* Industry standard American Petroleum Institute Standard 2510, Design and Construction of Liquefied Petroleum Gas (LPG) Installations (8th Ed., May 2001, reaffirmed October 2011) (“API 2510”) covers “the design, construction, and location of liquefied petroleum gas (LPG) installations at marine and pipeline terminals, natural gas processing plants, refineries, petrochemical plants, or

tank farms.” API 2510, Section 1. API 2510 addresses the minimum spacing of equipment, including the distance between LPG tanks, and the distance between LPG tanks and other equipment (such as loading/unloading areas, suction pumps, and flammable storage tanks). According to API 2510, the LPG tank should be located at least 50 feet from equipment such as loading/unloading areas, process vessels, fired equipment and rotating equipment. API 2510, § 5.1.2.5. EPA inspectors observed that LPG Tank #1 was located 21 feet from the unloading hose, 17 feet from the unloading rack separator, 36 feet from the green storage building, and 14 feet from the three-phase separator.

78. *Insufficient Distance Between Condensate Tanks.* Industry standard National Fire Protection Association 30, Flammable and Combustible Liquids Code (2008 Edition) (“NFPA 30”) sets forth minimum spacing requirements between the shells of adjacent aboveground storage tanks. Section 22.4.2 specifies that horizontal tanks containing Class I or II liquids must be spaced at a minimum of 3 feet apart. NFPA 30, Table 22.4.2.1. EPA inspectors observed that condensate tanks were spaced closer than 3 feet apart.

79. *Inadequate Normal Venting for Condensate Tanks.* Industry standard NFPA 30 requires normal venting for vessels containing flammable liquids so as to address the hazards posed by storage of flammable liquids. Industry standard NFPA 30 states, “Storage tanks shall be vented to prevent the development of vacuum or pressure that can distort the tank or exceed the rated design pressure of the tank when the tank is filled or emptied because of atmospheric temperature changes.” NFPA 30, § 21.4.3.1. Specifications for safe, normal venting are set forth in Section 21.4.3. The venting may be in the form of a conservation vent for Class IA flammable liquids, but “[t]anks and pressure vessels that store Class IB and Class IC liquids shall be equipped with venting devices or with listed flame arresters.” NFPA 30, § 21.4.3.6, and 21.4.3.7. EPA inspectors observed that the condensate tanks lacked conservation vents or flame arrestors.

80. *Inadequate Emergency Venting for Condensate Tanks.* Industry standard NFPA 30 also requires emergency venting for vessels containing flammable liquids so as to address the hazards posed by storage of flammable liquids. NFPA 30 states, “Every aboveground storage tank shall have emergency relief venting in the form of construction or a device or devices that will relieve excessive internal pressure caused by an exposure fire.” NFPA 30, § 22.7.1.1. Acceptable emergency venting can take the form of a self-closing manway cover, a manway cover provided with long bolts that permit the cover to lift under internal pressure or additional or larger relief valve or valves to meet the required emergency relief venting capacity. NFPA 30, § 22.7.3. EPA inspectors observed that the 4,200-gallon condensate tanks had four 2-inch venting pipes and no additional larger relief valves. Respondent represents that each of these tanks also had a manway cover.

81. *Lack of Secondary Containment for Condensate Tanks.* NFPA 30 provides that tanks containing flammable liquids should be provided with a means to prevent accidental releases of liquids. Flammable vapors arising from accidental releases may ignite and pose threats to nearby storage tanks, as well as surrounding areas. The Facility had aboveground storage tanks containing Class I, Class II or Class IIIA flammable or combustible liquids, namely

the 4,200-gallon and an 8,820-gallon AST containing condensate located in the northwest section of the property west of LPG Tank #3. Industry standard NFPA 30 includes the following provisions addressing the storage of flammable and combustible liquids: “Every tank that contains a Class I, Class II, or Class IIIA liquid shall be provided with means to prevent an accidental release of liquid from endangering important facilities and adjoining property or from reaching waterways.” NFPA 30, § 22.11. EPA inspectors observed insufficient means for controlling spills from the tanks, such as an earthen dike that appeared to be insufficiently sized.

82. *Compressor Building –Electrical Classification and Ventilation.* Industry standard American Petroleum Institute Recommended Practice 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, 2d. ed., Nov. 1997, reaff’d Nov. 2002 (“API RP 500”) defines adequate ventilation as that which prevents “the accumulation of significant quantities of vapor-air concentrations from exceeding 25 percent of the lower flammable limit.” API RP 500, § 6.3.2.1. There are several acceptable methods for achieving adequate ventilation, examples of which are set forth in Section 6.3.2.4. The standard provides that a ventilation rate that affords six air changes per hour, 1 cfm per square foot of floor area (0.3m³/min/m²), or other similar criterion prevents such an accumulation. API RP 500, § 6.3.2.4.2. Recirculation via fans is acceptable, but the fans must be of the right types for the classification. Respondent represents that the fan in the compressor building is manually controlled, based on temperature. Temperature-activated fans are acceptable only in buildings classified as Class 1, Division 1; otherwise, the fans must operate continuously and provide the proper ventilation listed above. API RP 500, § 6.3.2.4.2. EPA inspectors observed that the compressor building lacked adequate ventilation. Further, EPA Inspectors saw no documentation, such as an electrical classification drawing, indicating that the compressor building at the Irishtown Facility is classified as Class 1, Division 1. API RP 500 further provides that if the classification is not acceptable, then an alternative method of providing acceptable ventilation is through the use of combustible gas detection equipment. API RP 500, § 6.5. EPA inspectors observed that the compressor buildings at the Irishtown Facility did not have combustible gas detection equipment installed.

83. *Inadequate Mechanical Integrity Procedures.* Industry standards American Petroleum Institute 510, Pressure Vessel Inspection Code: In-service Inspection, Rating, Repair, and Alteration, 10th ed., May 2014 (“API 510”), and American Petroleum Institute Recommended Practice 576, Inspection of Pressure-relieving Devices, 3d ed., Nov, 2009 (“API RP 576”) provide requirements for testing of pressure relief valves on LPG vessels. EPA inspectors observed that pressure relief valves on LPG vessels did not appear to have been tested or replaced. Industry standard API 2510 provides requirements for testing transfer hoses for LPG facilities. Pressure testing must be conducted annually. API 2510, § 9.5.1.3.3. EPA inspectors observed that the transfer hoses on the LPG tanks did not appear to have been tested at the Irishtown Facility since operations began. Manufacturers routinely recommend replacing transfer hoses every five years. EPA inspectors observed that transfer hoses at the Irishtown Facility did not appear to have been replaced since the startup of operations.

84. *Fire Safety Analysis and Fire Protection.* Section 10.3 of API 2510 provides for fire water systems for LPG storage facilities unless a safety analysis shows this protection is

unnecessary or impractical. Except for remote facilities, which require no protection, Section 10.7.1 of API 2510 provides for fireproofing for LPG vessels if portable equipment is the only means of applying fire water. The American Petroleum Institute Standard 2510A, Fire-Protection Considerations for the Design and Construction of Liquefied Petroleum Gas (LPG) Storage Facilities (2nd Ed., December 1996, reaffirmed December 2015) (“API 2510A”) addresses “the design, operation, and maintenance of LPG storage facilities from the standpoints of prevention and control of releases, fire protection design, and fire-control measures [S]ince it supplements API Standard 2510 and provides the basis for many of the requirements stated in that standard, [API 2510A] must be used in conjunction with API Standard 2510.” API 2510A, § 1.1.1. EPA inspectors observed that Respondent had not conducted a safety analysis pursuant to API 2510 and API 2510A at the Irishtown Facility to evaluate the need for fire protection.

85. The Part 68 Regulations require that stationary sources, whether categorized as a Program 2 or Program 3 facility, comply with emergency response requirements in 40 C.F.R. Part 68, Subpart E. To qualify as a Program 1 facility, “[e]mergency response procedures [must] have been coordinated between the stationary source and local emergency planning and response organizations.” 40 C.F.R. § 68.10(b)(3). For Program 2 and 3 facilities, if the owner or operator has not coordinated its response with the local fire department, in lieu of doing so, the owner or operator must develop and implement an emergency response program for the purpose of protecting public health and the environment. The requirements of such an emergency response program are set forth in 40 C.F.R. § 68.95. During the inspection, Respondent was unable to present any documentation that it had coordinated its emergency response with the local fire department or that, in lieu of such coordination, it had developed its own emergency response program for the Irishtown Facility.

86. On April 12, 2017, EPA and Respondent KC Midstream Solutions, LLC, entered into an Administrative Settlement Agreement and Order on Consent, EPA Docket No. CAA-03-2017-0103DA (“ASAOC”), pursuant to the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B). The ASAOC required Respondent KC Midstream Solutions, LLC, to take certain actions at the Irishtown Facility and the Endeavor Facility as specified in Paragraph 50 of the ASAOC to ensure that both Facilities were operated in compliance with obligations under Sections 112(r)(1) and (7) of the CAA and the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68 (hereafter the “Work”). Respondent KC Midstream Solutions, LLC, complied with the terms of the ASAOC and completed the Work at the Irishtown Facility, including submission of the Final Report required by Paragraph 50.e. of that ASAOC, on April 17, 2018.

**CONCLUSIONS OF LAW RELATED TO THE
VIOLATION OF SECTION 112(r) OF THE CAA – IRISHTOWN FACILITY**

87. The findings of fact and conclusions of law contained in Paragraphs 5 through 86 of this CA/FO are incorporated by reference herein as though fully set forth at length.

88. Because the LPG present at the Irishtown Facility consists of a mixture of the naturally-occurring substances, propane, butane, isobutane, pentane, each of which is a listed hazardous chemical pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, Table 3, and each of which is present in the LPG at greater than one percent, the LPG mixture constitutes a regulated substance pursuant to Section 112(r)(2) and (3) of the CAA, 42 U.S.C. § 7412(r)(2) and (3), and 40 C.F.R. § 68.115(b)(2).

89. The Irishtown Facility constitutes a stationary source and a natural gas processing plant, as the terms are defined at 40 C.F.R. § 68.3.

90. At all times relevant to this Consent Agreement, LPG has been present in a process at the Irishtown Facility in an amount exceeding its threshold quantity.

91. The Irishtown Facility is a Program 3 Facility under the Chemical Accident Prevention Provisions, in accordance with 40 C.F.R. § 68.10(d).

92. Respondent Catalyst Energy, Inc., is a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

93. Respondent KC Midstream Solutions, LLC is a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

94. Respondent Catalyst Energy, Inc. was the owner and operator of a “stationary source,” at the Irishtown Facility as the term is defined at 40 C.F.R. § 68.3, from January 2002 through November 2015.

95. Respondent KC Midstream Solutions, LLC, has been the owner and operator of a “stationary source,” at the Irishtown Facility as the term is defined at 40 C.F.R. § 68.3, from November 2015 to the present.

96. Respondent Catalyst Energy, Inc., was subject to the requirements of Section 112(r) of the CAA, 40 U.S.C. § 7412(r), and 40 C.F.R. Part 68, at the Irishtown Facility because it was the owner and/or operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

97. Respondent KC Midstream Solutions, LLC, is subject to the requirements of Section 112(r) of the CAA, 40 U.S.C. § 7412(r), and 40 C.F.R. Part 68, at the Irishtown Facility because it is the owner and/or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process.

98. Respondent Catalyst Energy, Inc. violated the requirements of 40 C.F.R. Part 68 to fully implement a risk management program for the Irishtown Facility from January 2002 to November 2015. Respondent failed to timely submit a risk management plan, in violation of 40 C.F.R. § 68.150(a), failed to implement every element of the Program 3 Prevention Program requirements in RMP Regulations, in violation of 40 C.F.R. Part 68, Subpart D, or to coordinate

emergency planning, in violation of 40 C.F.R. Part 68, Subpart E. The period of violation, for purposes of this Consent Agreement, is March 2013 through November 2015.

99. Respondent KC Midstream Solutions, LLC. violated the requirements of 40 C.F.R. Part 68 to fully implement a risk management program for the Irishtown Facility from November 2015 to February 16, 2018. Respondent failed to timely submit a risk management plan, in violation of 40 C.F.R. § 68.150(a), failed to implement every element of the Program 3 Prevention Program requirements, in violation of 40 C.F.R. Part 68, Subpart D, or to coordinate emergency planning, in violation of 40 C.F.R. Part 68, Subpart E.

COUNT 11
FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 112(r) OF THE CAA – ENDEAVOR FACILITY

100. According to information provided by Respondent Catalyst Energy, Inc., the company began operating the Endeavor Facility on or before July 2008. On September 1, 2008, the quantity of LPG being stored at the Endeavor Facility exceeded the threshold quantity of 10,000 pounds.

101. At the time of the CAA Inspection, the process equipment at the Endeavor Facility consisted of one main compressor, one refrigeration compressor, one 30,000-gallon bullet AST storing LPG, one 2,100-gallon fiberglass reinforced plastic (“FRP”) AST containing condensate, and one 300-gallon tote containing condensate. Respondent represents that since the inspection, the 2,100-gallon FRP AST has been replaced with a 2,100-gallon steel AST, and the 300-gallon tote was replaced with a 252-gallon AST, which has since been removed.

102. At the time of the CAA Inspection, EPA inspectors observed that the Endeavor Facility stored LPG in one 30,000-gallon bullet AST.

103. At the time of the CAA Inspection, EPA inspectors observed that the Endeavor Facility had aboveground storage tanks containing condensate, which EPA determined constitutes a Class IA or IB flammable liquid according to National Fire Protection Association 30, Flammable and Combustible Liquids Code (2012 Edition). Respondent represents that currently, the only AST containing condensate is one 2,100-gallon steel AST.

104. Respondent Catalyst Energy, Inc.’s response to EPA’s information request indicated that 162,000 pounds of LPG were present in one 30,000-gallon bullet tank at the Endeavor Facility during each of the calendar years 2013, 2014 and 2015, based on the capacity of the bullet tanks. However, Respondent KC Midstream Solutions, LLC, later clarified that the Endeavor Facility never stored more than one-half of the capacity of the bullet tank; therefore, the maximum amount of LPG stored at the Endeavor Facility from at least 2012 to the present was 81,000 pounds.

105. Respondent Catalyst Energy, Inc., handled and/or stored at the Endeavor Facility more than 10,000 pounds of LPG, the threshold quantity of a regulated substance in a process from September 2008 to November 2015.

106. Respondent KC Midstream Solutions, LLC, handled and/or stored at the Endeavor Facility more than 10,000 pounds of LPG, the threshold quantity of a regulated substance in a process from November 2015 until January 2017.

107. EPA determined that the natural gas processing at the Endeavor Facility was subject to the Program 1 requirements of the Part 68 Regulations.

108. On June 23, 2016, Respondent Catalyst Energy, Inc. emailed an RMP for the Endeavor Facility to an EPA Risk Management Coordinator, in further response to EPA's September 11, 2015 Information Request 2. On August 23, 2016, Respondent Catalyst Energy, Inc., submitted the initial RMP for the Endeavor Facility to EPA electronically via RMP* eSubmit, and on October 3, 2016, Respondent Catalyst Energy, Inc. resubmitted the RMP for the Endeavor Facility to EPA.

109. EPA determined that, at the time of the CAA Inspection, the process equipment at the Endeavor Facility consisted of one main compressor, one refrigeration compressor, one 30,000-gallon bullet AST storing LPG, one 2,100-gallon fiberglass reinforced plastic ("FRP") AST containing condensate, and one 300-gallon tote containing condensate. Respondent represents that since the inspection, the 2,100-gallon FRP AST was replaced with a 2,100-gallon steel AST, and the 300-gallon tote was replaced with a 252-gallon AST, which was subsequently removed from the Facility.

110. Respondent Catalyst Energy, Inc. did not submit an RMP for the Endeavor Facility in September 2008.

111. Respondent KC Midstream Solutions, LLC did not submit an RMP for the Endeavor Facility when it became the owner and operator of the Facility in November 2015.

112. The Endeavor Facility continued to operate as a natural gas processing plant without an RMP until August 2016, when Respondent Catalyst Energy, Inc. emailed an RMP to EPA.

113. On January 10, 2017, a fire occurred in the compressor building at the Endeavor Facility, resulting in an evacuation in a four-mile area around the Endeavor Facility. After the fire, Respondent KC Midstream Solutions, LLC suspended processing operations at the Endeavor Facility.

114. The quantity of LPG being stored at the Endeavor Facility exceeded 10,000 pounds from September 1, 2008 until January 11, 2017, when natural gas processing operations at the Endeavor Facility were suspended.

115. The Part 68 Regulations require that stationary sources that constitute Program 1 facilities must calculate the distance to a toxic or flammable endpoint for a worst-case scenario release assessment pursuant to 40 C.F.R. Part 68, Subpart B, and 40 C.F.R. § 68.25. Based on information provided by Respondents during the CAA Inspection, EPA determined that Respondent Catalyst Energy, Inc. incorrectly calculated the distance to a flammable endpoint for a worst-case release assessment in its initial RMP submitted on August 23, 2016.

116. The Part 68 Regulations require that stationary sources that constitute Program 1 facilities must coordinate emergency response procedures with local emergency planning and response organizations.” 40 C.F.R. § 68.10(b)(3). Based on information provided by Respondents during the CAA Inspection, EPA determined that the Endeavor Facility did not formally coordinate emergency response procedures with local emergency planning and response organizations until after it submitted its RMP in August 2016.

117. As noted in Paragraph 86, above, on April 12, 2017, EPA and Respondent KC Midstream Solutions, LLC, entered into an ASAOC, which required Respondent KC Midstream Solutions, LLC, to take certain actions at the Endeavor Facility as specified in Paragraph 50 of the ASAOC to ensure that the Facility is operated in compliance with obligations under Sections 112(r)(1) and (7) of the CAA and the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68 (hereafter the “Work”).

118. Respondent KC Midstream Solutions, LLC, informed EPA in November 2017 that it was not processing any natural gas at the Endeavor Facility and not storing any produced natural gas liquids or condensate at the Endeavor Facility, and that for business reasons, it had determined not to continue natural gas processing operations at the Endeavor Facility for the immediate future.

119. On December 27, 2017, EPA and Respondent KC Midstream Solutions, LLC, entered into a Modification of the ASAOC, which, *inter alia*, deleted the Work requirements pertaining to the Endeavor Facility and required Respondent KC Midstream Solutions, LLC, to provide EPA with a written report, by April 1, 2018, describing the status of the Endeavor Facility and whether Respondent KC Midstream Solutions, LLC, intends to store or process regulated substances at the Endeavor Facility within the six months following the submission of the report.

120. By letter dated March 1, 2018, Respondent KC Midstream Solutions, LLC, informed EPA that it intended to restart the Endeavor Facility on or before June 1, 2018, after making improvements at the Endeavor Facility pursuant to a proposed schedule.

**CONCLUSIONS OF LAW RELATED TO THE
VIOLATION OF SECTION 112(r) OF THE CAA – ENDEAVOR FACILITY**

121. The findings of fact and conclusions of law contained in Paragraphs 5 through 120 of this CA/FO are incorporated by reference herein as though fully set forth at length.

122. Because the LPG present at the Endeavor Facility consists of a mixture of the naturally-occurring substances, propane, butane, isobutane, pentane, each of which is a listed hazardous chemical pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, Table 3, and each of which is present in the LPG at greater than one percent, the LPG mixture constitutes a regulated substance pursuant to Section 112(r)(2) and (3) of the CAA, 42 U.S.C. § 7412(r)(2) and (3), and 40 C.F.R. § 68.115(b)(2).

123. The Endeavor Facility constitutes a stationary source and a natural gas processing plant, as the terms are defined at 40 C.F.R. § 68.3.

124. From March 2013 until January 2017, LPG has been present in a process at the Endeavor Facility in an amount exceeding its threshold quantity.

125. Respondent Catalyst Energy, Inc. was the owner and operator of a “stationary source,” at the Endeavor Facility as the term is defined at 40 C.F.R. § 68.3, from July 2008 through November 2015.

126. The Endeavor Facility is a Program 1 Facility under the Chemical Accident Prevention Provisions, in accordance with 40 C.F.R. § 68.10(b).

127. Respondent KC Midstream Solutions, LLC, has been the owner and operator of a “stationary source,” at the Endeavor Facility as the term is defined at 40 C.F.R. § 68.3, from November 2015 to November 2017.

128. Respondent Catalyst Energy, Inc., was subject to the requirements of Section 112(r) of the CAA, 40 U.S.C. § 7412(r), and 40 C.F.R. Part 68, at the Endeavor Facility because it was the owner and/or operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

129. Respondent KC Midstream Solutions, LLC, was subject to the requirements of Section 112(r) of the CAA, 40 U.S.C. § 7412(r), and 40 C.F.R. Part 68, at the Endeavor Facility because it was the owner and/or operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

130. Respondent Catalyst Energy, Inc. violated the requirements of 40 C.F.R. Part 68 to fully implement a risk management program for the Endeavor Facility from July 2008 to November 2015. Respondent failed to timely submit a RMP, in violation of 40 C.F.R. § 68.150(b), failed to timely and correctly calculate the worst-case scenario in accordance with 40 C.F.R. Subpart B, in violation of 40 C.F.R. § 68.10(b)(2), or to coordinate emergency planning, in violation of 40 C.F.R. § 68.10(b)(3). The period of violation, for purposes of this Consent Agreement, is March 2013 through November 2015.

131. Respondent KC Midstream Solutions, LLC. violated the requirements of 40 C.F.R. Part 68 to fully implement a risk management program for the Endeavor Facility from November 2015 to August 2016. Respondent failed to timely submit a RMP, in violation of 40

C.F.R. § 68.150(b), failed to timely and correctly calculate the worst-case scenario in accordance with 40 C.F.R. Subpart B, in violation of 40 C.F.R. § 68.10(b)(2), or to coordinate emergency planning, in violation of 40 C.F.R. § 68.10(b)(3).

COUNT 12
FINDINGS OF FACT RELATED TO THE
VIOLATION OF SECTION 112(r) OF THE CAA – KANE FACILITY

132. According to information provided by Respondent Catalyst Energy, Inc., the company began operating the Kane Facility on or before January 2008. On March 31, 2008, the quantity of LPG being stored at the Kane Facility exceeded the threshold quantity of 10,000 pounds.

133. EPA determined that at the time of the CAA Inspection, the process equipment at the Kane Facility consisted of one main compressor, one refrigeration compressor, one 30,000-gallon bullet AST storing LPG, one AST potentially containing a mixture of condensate, water, lubricating oil, ethylene glycol and triethylene glycol and two 55-gallon waste drums.

134. At the time of the CAA Inspection, EPA inspectors observed that the Kane Facility had stored LPG in a 30,000-gallon bullet AST.

135. At the time of the CAA Inspection, EPA inspectors observed that the Kane Facility had ASTs. According to KC Midstream Solutions, the ASTs had contained condensate, which EPA determined constitutes a Class IA or IB flammable liquid according to National Fire Protection Association 30, Flammable and Combustible Liquids Code (2012 Edition).

136. At the time of the CAA Inspection, the Kane Facility was not processing natural gas or storing LPG or storing condensate.

137. Respondent Catalyst Energy, Inc.'s response to EPA's Information Request 2 indicated that 162,000 pounds of LPG were present in one 30,000-gallon bullet tank at the Kane Facility during each of the calendar years 2013, 2014 and 2015, based on the capacity of the bullet tank. However, Respondent KC Midstream Solutions, LLC, later clarified that the Kane Facility never stored more than one-half of the capacity of the bullet tank; therefore, the maximum amount of LPG stored at the Kane Facility from at least March 2013 until March 2017 was 81,000 pounds.

138. Respondent Catalyst Energy, Inc., handled and/or stored at the Kane Facility more than 10,000 pounds of LPG, the threshold quantity of a regulated substance in a process, from March 2008 to November 2015.

139. Respondent KC Midstream Solutions, LLC, handled and/or stored at the Kane Facility more than 10,000 pounds of LPG, the threshold quantity of a regulated substance in a process from November 2015 until the Kane Facility was deregistered in March 2017.

140. Respondent Catalyst Energy, Inc. did not submit an RMP for the Kane Facility in March 2008.

141. Respondent KC Midstream Solutions, LLC did not submit an RMP for the Endeavor Facility when it became the owner and operator of the Facility in November 2015.

142. On June 23, 2016, Respondent Catalyst Energy, Inc. emailed the RMP for the Kane Facility to an EPA Risk Management Coordinator, in further response to EPA's September 11, 2015 Information Request 2. On August 23, 2016, Respondent Catalyst Energy, Inc., submitted the initial RMP for the Kane Facility to EPA electronically via RMP* eSubmit, and on October 3, 2016, Respondent Catalyst Energy, Inc. resubmitted the RMP for the Kane Facility to EPA. In March 2017, Respondent Catalyst Energy, Inc. deregistered the Kane Facility from RMP *eSubmit.

143. The Kane Facility operated as a natural gas processing plant without an RMP from March 2008 until August 2016, when Respondent Catalyst Energy, Inc. emailed an RMP to EPA.

144. The Part 68 Regulations require that stationary sources that constitute Program 1 facilities must calculate the distance to a toxic or flammable endpoint for a worst-case scenario release assessment pursuant to 40 C.F.R. Part 68, Subpart B, and 40 C.F.R. § 68.25. Based on information provided by Respondents during the CAA Inspection, EPA determined that Respondent Catalyst Energy, Inc. did not calculate the distance to a toxic or flammable endpoint for a worst case scenario assessment prior to its submission of its RMP in August 2016.

145. The Part 68 Regulations require that stationary sources that constitute Program 1 facilities coordinate emergency response procedures with local emergency planning and response organizations." 40 C.F.R. § 68.10(b)(3). Based on information provided by Respondents during the CAA Inspection, EPA determined that the Kane Facility did not coordinate emergency response procedures with local emergency planning and response organizations.

**CONCLUSIONS OF LAW RELATED TO THE
VIOLATION OF SECTION 112(r) OF THE CAA – KANE FACILITY**

146. The findings of fact and conclusions of law contained in Paragraphs 5 through 145 of this CA/FO are incorporated by reference herein as though fully set forth at length.

147. Because the LPG present at the Kane Facility consists of a mixture of the naturally-occurring substances, propane, butane, isobutane, pentane, each of which is a listed hazardous chemical pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), at 40 C.F.R. § 68.130, Table 3, and each of which is present in the LPG at greater than one percent, the LPG mixture constitutes a regulated substance pursuant to Section 112(r)(2) and (3) of the CAA, 42 U.S.C. § 7412(r)(2) and (3), and 40 C.F.R. § 68.115(b)(2).

148. The Kane Facility constituted a stationary source and a natural gas processing plant, as the terms are defined at 40 C.F.R. § 68.3.

149. At all times relevant to this Consent Agreement until March 2017, LPG had been present in a process at the Kane Facility in an amount exceeding its threshold quantity.

150. The Kane Facility was a Program 1 Facility under the Chemical Accident Prevention Provisions until March 2017, in accordance with 40 C.F.R. § 68.10(b).

151. Respondent Catalyst Energy, Inc. was the owner and operator of a “stationary source,” at the Kane Facility as the term is defined at 40 C.F.R. § 68.3, since March 2008 through November 2015.

152. Respondent KC Midstream Solutions, LLC, has been the owner and operator of a “stationary source,” at the Kane Facility as the term is defined at 40 C.F.R. § 68.3, from November 2015 to March 2017.

153. Respondent Catalyst Energy, Inc., was subject to the requirements of Section 112(r) of the CAA, 40 U.S.C. § 7412(r), and 40 C.F.R. Part 68, at the Kane Facility because it was the owner and/or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process.

154. Respondent KC Midstream Solutions, LLC, was subject to the requirements of Section 112(r) of the CAA, 40 U.S.C. § 7412(r), and 40 C.F.R. Part 68, at the Kane Facility because it is the owner and/or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process.

155. Respondent Catalyst Energy, Inc. violated the requirements of 40 C.F.R. Part 68 to fully implement a risk management program for the Kane Facility from March 2008 to November 2015. Respondent Catalyst Energy, Inc., failed to timely submit an RMP, in violation of 40 C.F.R. § 68.150(b), failed to timely calculate the worst-case scenario in accordance with 40 C.F.R. Subpart B, in violation of 40 C.F.R. § 68.10(b)(2), or to coordinate emergency planning, in violation of 40 C.F.R. § 68.10(b)(3). The period of violation, for purposes of this Consent Agreement, is March 2013 through November 2015.

156. Respondent KC Midstream Solutions, LLC. violated the requirements of 40 C.F.R. Part 68 to fully implement a risk management program for the Kane Facility from November 2015 to August 2016. Respondent KC Midstream Solutions, LLC., failed to timely submit a RMP, in violation of 40 C.F.R. § 68.150(b), failed to timely calculate the worst-case scenario in accordance with 40 C.F.R. Subpart B, in violation of 40 C.F.R. § 68.10(b)(2), or to coordinate emergency planning, in violation of 40 C.F.R. § 68.10(b)(3).

SETTLEMENT

157. In accordance with 40 C.F.R. § 22.18(c), and in full and final settlement and resolution of all allegations referenced in the foregoing Findings of Fact and Conclusions of law, and in full satisfaction of all civil penalty claims pursuant thereto, for the purpose of this proceeding, the Respondent consents to the assessment of a civil penalty for the violations of Sections 311 and 312 of EPCRA, 42 U.S.C. §§ 11021, 11022, in the amount of \$54,537 (“EPCRA Penalty”), and a civil penalty for the violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), in the amount of \$160,505 (“CAA Penalty”), set forth above, for a total penalty of \$215,042 (referred to as “Civil Penalty”).

PAYMENT TERMS

158. Respondent consents to the issuance of this Consent Agreement and consents, for purposes of settlement, to the payment of the Civil Penalty cited in the foregoing Paragraph.

159. The Civil Penalty shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of this CA/FO. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent agrees to pay the civil penalty of \$215,042 (“Civil Penalty”) for the EPCRA and CAA violations in six (6) installments with interest on the outstanding principal balance in accordance with the following schedule, with each and every payment identified with “EPA Docket Nos. EPCRA-03-2018-0071; CAA-03-2018-0071,” and using one of the methods identified in Paragraph 164, below:

- a. 1st Payment: The first payment in the amount of \$35,915.01, consisting of a principal payment of \$35,915.01 and an interest payment of \$0, shall be paid within thirty (30) days of the Effective Date of this Agreement;
- b. 2nd Payment: The second payment in the amount of \$35,915.01, consisting of a principal payment of \$35,765.74 and an interest payment of \$149.27, shall be paid within sixty (60) days of the Effective Date of this Agreement;
- c. 3rd Payment: The third payment in the amount of \$35,915.01, consisting of a principal payment of \$35,795.54 and an interest payment of \$119.47, shall be paid within ninety (90) days of the Effective Date of this Agreement;
- d. 4th Payment: The fourth payment in the amount of \$35,915.01, consisting of a principal payment of \$35,825.37 and an interest payment of \$89.64, shall be paid within one hundred twenty (120) days of the Effective Date of this Agreement;
- e. 5th Payment: The fifth payment in the amount of \$35,915.01, consisting of a principal payment of \$35,855.23 and an interest payment of \$59.78,

shall be paid within one hundred fifty (150) days of the Effective Date of this Agreement; and

- f. 6th Payment: The sixth payment in the amount of \$35,915.01, consisting of a principal payment of \$35,885.11 and an interest payment of \$29.90, shall be paid within one hundred (180) days of the Effective Date of this Agreement.

160. Payment of the Civil Penalty shall be made in the following manner:

- g. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, EPCRA-03-2018-0071; CAA-03-2018-0071;
- h. All checks shall be made payable to United States Treasury;
- i. All payments made by check and sent by regular mail shall be addressed to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Contact: Jessica Henderson (513-487-2718)
- j. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. EPA
Government Lockbox 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Contact: 314-418-1028
- k. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

U.S. EPA
Cincinnati Finance
26 W. Martin Luther King Drive, MS-002
Cincinnati, OH 45268-0001

- l. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 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

- m. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

U.S. Treasury REX /Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Randolph Maxwell 202-874-3720
or REX, 1-866-234-5681

- n. Online Payment Option:

WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

- o. Additional payment guidance is available at:

<https://www.epa.gov/financial/makepayment>

161. Respondent shall submit copies of checks, verification of wire transfer or ACH to the following persons:

Regional Hearing Clerk
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
R3_Hearing_Clerk@epa.gov

and

Cynthia T. Weiss (3RC43)
Senior Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
weiss.cynthia@epa.gov

162. The CAA Penalty stated herein is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty criteria set forth in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and is consistent with 40 C.F.R. Part 19 and the *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7) and 40 C.F.R. Part 68* (June 2012).

163. The EPCRA Penalty stated herein is consistent with 40 C.F.R. Part 19, and is based upon Complainant's consideration of a number of factors, including, but not limited to, those set forth in EPA's *Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act* (September 30, 1999).

164. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment in accordance with this CA/FO or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges, including interest, penalties, and/or administrative costs of handling delinquent debts.

165. In accordance with 40 C.F.R. § 13.11(a)(1), interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a copy of this fully executed CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

166. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue in accordance with 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the penalties become due and payable and an additional \$15.00 for each subsequent thirty (30) day period the penalties remain unpaid.

167. A penalty charge of six (6) percent per year will be assessed monthly on any portion of the civil penalties which remain delinquent more than ninety (90) calendar days in accordance with 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent, in accordance with 31 C.F.R. § 901.9(d).

168. Failure by Respondent to pay the CAA Penalty assessed by the Final Order in full in accordance with this CA/FO may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. In any such

collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

GENERAL PROVISIONS

169. For the purpose of this proceeding, Respondent expressly waives its right to a hearing and to appeal the Final Order under Section 113(d)(2) of the CAA, 42 U.S.C. § 7413(d)(2), and Section 325 of EPCRA, 42 U.S.C. § 11045.

170. The provisions of the CA/FO shall be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of the Consent Agreement and accompanying Final Order.

171. This CA/FO resolves only the civil penalty claims for the specific violations alleged in this Consent Agreement. Complainant reserves the right to commence action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nothing in this CA/FO shall be construed to limit the United States authority to pursue criminal sanctions. In addition, this settlement is subject to all limitations on the scope of resolution and the reservation of rights set forth in 40 C.F.R. § 22.18(c). Further, Complainant reserves any rights and remedies available to it under the CAA the regulations promulgated thereunder, and any other federal laws or regulations for which Complainant has jurisdiction, to enforce the provisions of this Consent Agreement and accompanying Final Order following its filing with the Regional Hearing Clerk.

172. By signing this Consent Agreement, Respondent acknowledges that this CA/FO will be available to the public and agrees that this CA/FO does not contain any confidential business information or personally identifiable information.

173. By signing this Consent Agreement, both parties agree that each party's obligations under this Consent Agreement and attached Final Order constitute sufficient consideration for the other party's obligations.

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

175. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

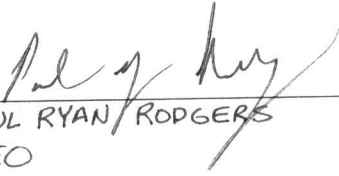
176. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

177. Each party to this action shall bear its own costs and attorney's fees.

In the Matter of KC Midstream Solutions, LLC
and Catalyst Energy, Inc.

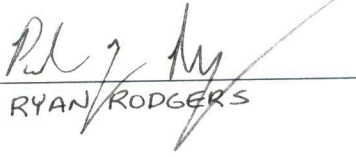
EPA Docket Nos. EPCRA-03-2018-0071;
CAA-03-2018-0071

FOR CATALYST ENERGY, INC.


Name: PAUL RYAN/RODGERS
Title: CEO

5/17/2018
DATE

FOR KC MIDSTREAM SOLUTIONS, LLC


Name: PAUL RYAN/RODGERS
Title: CEO

5/17/2018
DATE

In the Matter of KC Midstream Solutions, LLC
and Catalyst Energy, Inc.

EPA Docket Nos. EPCRA-03-2018-0071;
CAA-03-2018-0071

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY



Karen Melvin, Director
Hazardous Site Cleanup Division

MAY 23 2018

DATE

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

IN THE MATTER OF:)	
)	
KC Midstream Solutions, LLC)	EPA Docket Nos. EPCRA-03-2018-0071;
424 South 27th Street, Suite 304)	CAA-03-2018-0071
Pittsburgh, PA 15203,)	
)	
Catalyst Energy, Inc.)	
424 South 27th Street, Suite 304)	
Pittsburgh, PA 15203,)	
)	
Respondents.)	
)	Proceeding Pursuant to
)	Sections 311, 312 and 325 of the
Irishtown Gas Processing Plant)	Emergency Planning and Community
242 Sand Road)	Right-to-Know Act, 42 U.S.C. §§ 11021,
Lewis Run, McKean County, PA 16738,)	11022, 11045, and Sections 112(r) and
)	113 of the Clean Air Act, as amended,
Endeavor Gas Processing Plant)	42 U.S.C. §§ 7412(r) and 7413.
101 Queen Pumping Station Road)	
Tidioute, Forest County, PA 16321,)	
)	
Kane Gas Processing Plant)	
34 Hardwood Lane)	
Kane, McKean County, PA 16426,)	
)	
Facilities.)	

FINAL ORDER

Complainant, the Director of the Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III, and Respondents, Catalyst Energy, Inc. and KC Midstream Solutions, LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are


accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based on the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the statutory factors set forth in Section 113(e) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(e), and EPA’s *Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68* (June 2012), and is consistent with 40 C.F.R. Part 19, the EPCRA Penalty stated herein is consistent with 40 C.F.R. Part 19, and the factors set forth in EPA’s *Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act* (September 30, 1999).

NOW, THEREFORE, PURSUANT TO Section 113(d) of the CAA, 42 U.S.C. § 7413(d), Section 325 of EPCRA, 42 U.S.C. § 11045, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of **TWO HUNDRED FIFTEEN THOUSAND FORTY-TWO DOLLARS (\$215,042)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

May 24, 2018
Date



Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:

KC Midstream Solutions, LLC
424 South 27th Street, Suite 304
Pittsburgh, PA 15203,

Catalyst Energy, Inc.
424 South 27th Street, Suite 304
Pittsburgh, PA 15203,

Respondents

Irishtown Gas Processing Plant
242 Sand Road
Lewis Run, McKean County, PA 16738,

Endeavor Gas Processing Plant
101 Queen Pumping Station Road
Tidioute, Forest County, PA 16321,

Kane Gas Processing Plant
34 Hardwood Lane
Kane, McKean County, PA 16426,

Facilities.

Docket No. EPCRA-03-2018-0071
CAA-03-2018-0071

CERTIFICATE OF SERVICE

U.S. EPA-REGION 3-RHC
FILED-24MAY2018PM4:43

I, the undersigned, hereby certify that on the date provided below, I hand-delivered and filed the original of Consent Agreement and Final Order, along with enclosures and/or attachments, for the above-referenced matter, with the Regional Hearing Clerk, EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, and that a true and correct copy of the Consent Agreement and Final Order, along with its enclosures and/or attachments, was sent via overnight mail to:

Lisa M. Bruderly, Esquire
Babst Calland
603 Stanwix St., 6th floor
Two Gateway Center
Pittsburgh, PA 15222

May 24, 2018
Date

Cynthia T. Weiss
Cynthia T. Weiss (3RC42)

