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8 UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
9 REGION IX
75 HAWTHORNE STREET
10 SAN FRANCISCO, CA 94105

11 In the Matter of:)
12 CATALYTIC SOLUTIONS, INC.) Docket No. EPCRA-09-2008-0029
13 Respondent.) CONSENT AGREEMENT AND FINAL
14) ORDER PURSUANT TO 40 C.F.R.
§§ 22.13 and 22.18

15 I. CONSENT AGREEMENT

16 The United States Environmental Protection Agency, Region IX
17 ("EPA"), and Catalytic Solutions, Inc. ("Respondent") agree to
18 settle this matter and consent to the entry of this Consent
19 Agreement and Final Order ("CAFO"), which simultaneously
20 commences and concludes this matter in accordance with 40 C.F.R.
21 §§ 22.13(b) and 22.18(b).

22 A. AUTHORITY AND PARTIES

23 1. This is a civil administrative penalty action instituted
24 against Respondent pursuant to Section 325(c) of Title III of the
25 Superfund Amendments and Reauthorization Act, 42 U.S.C. §§ 11001
26 et seq., also known as the Emergency Planning and Community
27 Right-to-Know Act of 1986 ("EPCRA"), for violation of Section 313
28 of EPCRA, 42 U.S.C. § 11023, and the federal regulations

1 promulgated to implement Section 313 at 40 C.F.R Part 372.

2 2. Complainant is the Director of the Communities and
3 Ecosystems Division, EPA, Region IX, who has been duly delegated
4 the authority to initiate this action and to sign a consent
5 agreement settling this action.

6 3. Respondent is a California corporation located at 1640
7 Fiske Pl. in Oxnard, California.

8 B. APPLICABLE STATUTORY AND REGULATORY SECTIONS

9 4. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§
10 11023 and 11048, EPA promulgated the Toxic Chemical Release
11 Reporting: Community Right-to-Know Rule at 40 C.F.R. Part 372.

12 5. Section 313(a) of EPCRA, as implemented by 40 C.F.R. §
13 372.30, provides that an owner or operator of a facility that
14 meets the criteria set forth in EPCRA Section 313(b) and 40
15 C.F.R. § 372.22, is required to submit annually to the
16 Administrator of EPA and to the State in which the facility is
17 located, no later than July 1st of each year, a toxic chemical
18 release inventory reporting form (hereinafter "Form R") for each
19 toxic chemical listed under 40 C.F.R. § 372.65 that was
20 manufactured, processed or otherwise used at the facility during
21 the preceding calendar year in quantities exceeding the
22 thresholds established under EPCRA Section 313(f) and 40 C.F.R. §
23 372.25.

24 6. Section 313(b) of EPCRA and 40 C.F.R. § 372.22 provide
25 that the requirements of Section 313(a) and 40 C.F.R. § 372.30
26 apply to an owner and operator of a facility that has 10 or more
27

1 full-time employees; that is in a Standard Industrial
2 Classification major group codes 10 (except 1011, 1081, and
3 1094), 12 (except 1241), 20 through 39; industry codes 4911,
4 4931, or 4939 (limited to facilities that combust coal and/or oil
5 for the purpose of generating power for distribution in
6 commerce), or 4953 (limited to facilities regulated under the
7 Resource Conservation and Recovery Act, subtitle C, 42 U.S.C.
8 §6921 *et seq.*), or 5169, 5171, or 7389 (limited to facilities
9 primarily engaged in solvent recovery services on a contract or
10 fee basis); and that manufactures, processes, or otherwise uses
11 one or more toxic chemicals listed under Section 313(c) of EPCRA
12 and 40 C.F.R. § 372.65 in quantities in excess of the applicable
13 thresholds established under EPCRA Section 313(f) and 40 C.F.R. §
14 372.25.

15 7. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c) and 40
16 C.F.R. Part 19 authorize EPA to assess a penalty of up to \$27,500
17 for each violation of Section 313 of EPCRA that occurred on or
18 after January 31, 1997 but before March 15, 2004 and up to
19 \$32,500 for each violation of Section 313 of EPCRA that occurred
20 on or after March 15, 2004.

21 C. ALLEGATIONS

22 8. Respondent is a "person" as that term is defined by
23 Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

24 9. At all times relevant to this matter, Respondent was an
25 owner and operator of a "facility," as that term is defined by
26 Section 329(4) of EPCRA, 42 U.S.C. § 11049(4) and 40 C.F.R. §
27

1 372.3, which is located at 1640 Fiske Pl. in Oxnard, California
2 (hereinafter "Facility").

3 10. At all times relevant to this matter, the Facility had
4 10 or more "full-time employees," as that term is defined at 40
5 C.F.R. § 372.3.

6 11. The Facility is classified in Standard Industrial
7 Classification code 3429, which falls under the general category
8 of Fabricated Metal Products, except Machinery and Transportation
9 Equipment and within the Standard Industrial Classification code
10 34.

11 12. During calendar years 2005 and 2006, Respondent
12 processed approximately 55,400 pounds and 65,398 pounds,
13 respectively, of nitrate compounds, a chemical listed under 40
14 C.F.R. § 372.65.

15 13. The quantity of nitrate compounds that Respondent
16 processed at the Facility during calendar years 2005 and 2006
17 exceeds the established threshold of 25,000 pounds set forth at
18 40 C.F.R. § 372.25(a).

19 14. Respondent failed to submit a Form R for nitrate
20 compounds to the EPA Administrator and to the State of California
21 on or before July 1, 2006 for calendar year 2005 and July 1, 2007
22 for calendar year 2006.

23 15. Respondent's failure to submit a timely Form R for
24 nitrate compounds that Respondent processed at the Facility
25 during calendar years 2005 and 2006 constitutes two (2)
26 violations of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40
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1 C.F.R. Part 372.

2 16. The EPA Enforcement Response Policy for EPCRA Section
3 313 dated August 10, 1992, as amended by the Civil Monetary
4 Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19, sets
5 forth a penalty of THIRTY THOUSAND, FIVE HUNDRED DOLLARS
6 (\$30,500) for these violations.

7 D. RESPONDENT'S ADMISSIONS

8 17. In accordance with 40 C.F.R. § 22.18(b) (2) and for the
9 purpose of this proceeding, Respondent (i) admits that EPA has
10 jurisdiction over the subject matter of this CAFO and over
11 Respondent; (ii) neither admits nor denies the specific factual
12 allegations contained in Section I.C of this CAFO; (iii) consents
13 to any and all conditions specified in this CAFO and to the
14 assessment of the civil administrative penalty under Section I.F
15 of this CAFO; (iv) waives any right to contest the allegations
16 contained in Section I.C of this CAFO; and (v) waives the right
17 to appeal the proposed final order contained in this CAFO.

18 E. RESPONDENT'S CERTIFICATION

19 18. In executing this CAFO, Respondent certifies that (1)
20 it has now fully completed and submitted to EPA all of the
21 required toxic chemical release inventory reporting forms in
22 compliance with Section 313 of EPCRA and the regulations
23 promulgated thereunder; and (2) it has complied with all other
24 EPCRA requirements at all facilities under its control.

25 F. CIVIL ADMINISTRATIVE PENALTY

26 19. Respondent agrees to the assessment of a penalty in the
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1 amount of SIXTEEN THOUSAND, NINE HUNDRED AND SEVENTY DOLLARS
2 (\$16,970) as final settlement of the civil claims against
3 Respondent arising under EPCRA Section 313 as alleged in Section
4 I.C of this CAFO.

5 20. Respondent shall pay the assessed penalty no later than
6 thirty (30) days from the effective date of this CAFO. Payment
7 shall be made by cashier's or certified check payable to the
8 "Treasurer, United States of America," and shall be sent by
9 certified mail, return receipt requested, to the following
10 address:

11 US Environmental Protection Agency
12 Fines and Penalties
13 Cincinnati Finance Center
14 P.O. Box 979078
15 St. Louis, MO 63197-9000

16 The payment shall be accompanied by a transmittal letter
17 identifying the case name, the case docket number, and this CAFO.
18 Concurrent with delivery of the payment of the penalty,
19 Respondent shall send a copy of the check and transmittal letter
20 to the following addresses:

21 Regional Hearing Clerk
22 Office of Regional Counsel (ORC-1)
23 U.S. Environmental Protection Agency, Region IX
24 75 Hawthorne Street
25 San Francisco, CA 94105

26 Russ Frazer
27 Toxics Office (CED-4)
28 U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

21. Payment of the above civil administrative penalty shall
not be used by Respondent or any other person as a tax deduction

1 from Respondent's federal, state, or local taxes.

2 22. If Respondent fails to pay the assessed civil
3 administrative penalty specified in Paragraph 19 by the deadline
4 specified in Paragraph 20, then Respondent shall pay to EPA the
5 stipulated penalty of THIRTY THOUSAND, FIVE HUNDRED DOLLARS
6 (\$30,500) rather than the assessed penalty, which shall become
7 due and payable upon EPA's written request. In addition, failure
8 to pay the civil administrative penalty by the deadline specified
9 in Paragraph 20 may lead to any or all of the following actions:

10 a. The debt being referred to a credit reporting agency, a
11 collection agency, or to the Department of Justice for
12 filing of a collection action in the appropriate United
13 States District Court. 40 C.F.R. §§ 13.13, 13.14, and
14 13.33. In any such collection action, the validity, amount,
15 and appropriateness of the assessed penalty and of this CAFO
16 shall not be subject to review.

17 b. The debt being collected by administrative offset
18 (i.e., the withholding of money payable by the United States
19 to, or held by the United States for, a person to satisfy
20 the debt the person owes the Government), which includes,
21 but is not limited to, referral to the Internal Revenue
22 Service for offset against income tax refunds. 40 C.F.R.
23 Part 13, Subparts C and H.

24 c. EPA may (i) suspend or revoke Respondent's licenses or
25 other privileges; or (ii) suspend or disqualify Respondent
26 from doing business with EPA or engaging in programs EPA
27 sponsors or funds. 40 C.F.R. § 13.17.

1 d. In accordance with the Debt Collection Act of 1982 and
2 40 C.F.R. Part 13 interest, penalties charges, and
3 administrative costs will be assessed against the
4 outstanding amount that Respondent owes to EPA for
5 Respondent's failure to pay the civil administrative penalty
6 by the deadline specified in Paragraph 20. Interest will be
7 assessed at an annual rate that is equal to the rate of
8 current value of funds to the United States Treasury (i.e.,
9 the Treasury tax and loan account rate) as prescribed and
10 published by the Secretary of the Treasury in the Federal
11 Register and the Treasury Fiscal Requirements Manual
12 Bulletins. 40 C.F.R. § 13.11(a)(1). Penalty charges will
13 be assessed monthly at a rate of 6% per annum. 40 C.F.R.
14 § 13.11(c). Administrative costs for handling and
15 collecting Respondent's overdue debt will be based on either
16 actual or average cost incurred, and will include both
17 direct and indirect costs. 40 C.F.R. § 13.11(b). In
18 addition, if this matter is referred to another department
19 or agency (e.g., the Department of Justice, the Internal
20 Revenue Service), that department or agency may assess its
21 own administrative costs, in addition to EPA's
22 administrative costs, for handling and collecting
23 Respondent's overdue debt.

24 G. RETENTION OF RIGHTS

25 23. In accordance with 40 C.F.R. § 22.18(c), this CAFO only
26 resolves Respondent's liability for federal civil penalties for
27 the violations and facts specifically alleged in Section I.C of
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1 this CAFO. Nothing in this CAFO is intended to or shall be
2 construed to resolve (i) any civil liability for violations of
3 any provision of any federal, state, or local law, statute,
4 regulation, rule, ordinance, or permit not specifically alleged
5 in Section I.C of this CAFO; or (ii) any criminal liability. EPA
6 specifically reserves any and all authorities, rights, and
7 remedies available to it (including, but not limited to,
8 injunctive or other equitable relief or criminal sanctions) to
9 address any violation of this CAFO or any violation not
10 specifically alleged in Section I.C of this CAFO.

11 24. This CAFO does not exempt, relieve, modify, or affect
12 in any way Respondent's duty to comply with all applicable
13 federal, state, and local laws, regulations, rules, ordinances,
14 and permits.

15 H. ATTORNEYS' FEES AND COSTS

16 25. Each party shall bear its own attorneys' fees, costs,
17 and disbursements incurred in this proceeding.

18 I. EFFECTIVE DATE

19 26. In accordance with 40 C.F.R. §§ 22.18(b)(3) and
20 22.31(b), this CAFO shall be effective on the date that the final
21 order contained in this CAFO, having been approved and issued by
22 either the Regional Judicial Officer or Regional Administrator,
23 is filed.

24 J. BINDING EFFECT

25 27. The undersigned representative of Complainant and the
26 undersigned representative of Respondent each certifies that he
27 or she is fully authorized to enter into the terms and conditions


1 of this CAFO and to bind the party he or she represents to this
2 CAFO.

3 28. The provisions of this CAFO shall apply to and be
4 binding upon Respondent and its officers, directors, employees,
5 agents, trustees, servants, authorized representatives,
6 successors, and assigns.

7
8 FOR RESPONDENT, CATALYTIC SOLUTIONS, INC.

9 4 SEPTEMBER 2008

10 DATE




Charles F. Call
Chief Executive Officer
CATALYTIC SOLUTIONS, INC.

11
12 FOR COMPLAINANT, EPA REGION IX:

13
14 30 SEPTEMBER 2008

15 DATE



Enrique Manzanilla
Director
Communities and Ecosystems Division
U.S. ENVIRONMENTAL PROTECTION AGENCY,
REGION IX

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27 In the Matter of Catalytic Solutions, Inc.,

28 Docket No. EPCRA-09-2008-

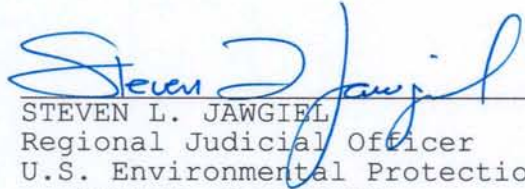
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2 II. FINAL ORDER

3 Complainant and Respondent, having entered into the
4 foregoing Consent Agreement,

5 IT IS HEREBY ORDERED that this CAFO (Docket No.)
6 be entered, and that Respondent shall pay a civil administrative
7 penalty in the amount of SIXTEEN THOUSAND, NINE HUNDRED AND
8 SEVENTY DOLLARS (\$16,970) and comply with the terms and
9 conditions set forth in the Consent Agreement. This CAFO shall
10 become effective upon filing.

11 09/30/08

12 DATE

13 
14 STEVEN L. JAWGIEL
15 Regional Judicial Officer
16 U.S. Environmental Protection
17 Agency, Region IX
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CERTIFICATE OF SERVICE

I certify that the original fully executed Consent Agreement and Final Order ("CAFO"),
Docket Number EPCRA-09-2008⁰⁰²⁸, was filed this day with the Regional Hearing Clerk, U.S.
EPA, Region IX, 75 Hawthorne Street, San Francisco, California, 94105, and that a true and
correct copy of the CAFO was sent to Respondent at the following address:

Mr. Charles F. Call
CEO
Catalytic Solutions, Inc.
1640 Fiske Place
Oxnard, CA 93033

Certified Mail No: 7007 3020 0000 9807 1118

Danielle E. Carr

Danielle Carr
Regional Hearing Clerk
Region IX, EPA
Office of Regional Counsel

10/02/08
Date