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U.S. EPA, REGION IX  
REGIONAL HEARING CLERK

NANCY J. MARVEL  
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IVAN LIEBEN  
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Region IX  
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San Francisco, CA 94105  
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Attorneys for Complainant

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

In the matter of:	)	
	)	Docket No. EPCRA-9-2009-0016
Lubricating Specialties Company,	)	
	)	CONSENT AGREEMENT AND
	)	FINAL ORDER
	)	
Respondent.	)	
_____	)	

I. CONSENT AGREEMENT

Complainant, the Director of the Communities and Ecosystems Division, United States Environmental Protection Agency, Region IX (“EPA ”), and Respondent, Lubricating Specialties Company, agree to settle this matter initiated against Respondent under Title III of the Superfund Amendments and Reauthorization Act, 42 U.S.C. §§ 11001 et seq., also known as the Emergency Planning and Community Right-To-Know Act of 1986 (“EPCRA”) and consent to the entry of this Consent Agreement and Final Order (“CAFO”) pursuant to 40 C.F.R. § 22.18.

A. AUTHORITY

1. EPA initiated this civil administrative proceeding for the assessment of a civil administrative penalty pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the

Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits at 40 C.F.R. Part 22 by issuing a Complaint and Notice of Opportunity for Hearing (“Complaint”) against Respondent on September 30, 2009.

2. The Complaint alleges that Respondent violated Section 313 of EPCRA, 42 U.S.C. § 11023, and the implementing regulations set forth at 40 C.F.R. Part 372 by failing to submit timely, complete, and correct Toxic Chemical Release Inventory Reporting Forms for zinc compounds for calendar years 2005, 2006, and 2007 that Respondent processed at two of its facilities.

3. EPA and Respondent have agreed to resolve this civil administrative proceeding by executing this CAFO.

#### B. RESPONDENT’S ADMISSIONS

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

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C. CIVIL ADMINISTRATIVE PENALTY

5. In settlement of the violations specifically alleged in the Complaint, Respondent agrees to pay a civil administrative penalty of SEVENTY-SEVEN THOUSAND DOLLARS (\$77,000). Respondent shall pay this assessed penalty within thirty (30) days of the effective date of this CAFO, shall make this payment by cashier's or certified check payable to the "Treasurer, United States of America," and shall send the check by certified mail, return receipt requested, to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

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

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

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

Ivan Lieben  
Office of Regional Counsel (ORC-3)

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U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

6. Payment of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.

7. If Respondent fails to pay the assessed civil administrative penalty specified in Paragraph 5 within 30 days of the effective date of this CAFO, then Respondent shall also pay to EPA a stipulated penalty of THIRTY-THREE THOUSAND DOLLARS (\$33,000). This stipulated penalty shall be due and payable upon EPA's written request, together with the initially assessed civil administrative penalty, resulting in a total penalty due of ONE HUNDRED TEN THOUSAND DOLLARS (\$110,000). In addition, failure to pay the assessed civil administrative penalty within 30 days of the effective date of this CAFO may lead to any or all of the following actions:

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

(b) The debt being collected by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to

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the Internal Revenue Service for offset against income tax refunds. 40 C.F.R. Part 13, Subparts C and H.

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

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

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#### D. RESPONDENT'S CERTIFICATION

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

#### E. RETENTION OF RIGHTS

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

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

#### F. ATTORNEYS' FEES AND COSTS

11. Each party shall bear its own attorneys' fees, costs, and disbursements incurred in

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this proceeding.

G. EFFECTIVE DATE

12. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CAFO shall be effective on the date that the Final Order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed.

H. BINDING EFFECT


13. The undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO and to bind the party he or she represents to this CAFO.

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

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FOR RESPONDENT, LUBRICATING SPECIALTIES COMPANY:

5/3/2010  
DATE:


BY:   
NAME: SYDNEY THWAITES  
TITLE: LFO

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FOR COMPLAINANT, EPA REGION IX:

14 July 2010  
DATE


  
\_\_\_\_\_  
ENRIQUE MANZANILLA  
Director, Communities and Ecosystems Division  
United States Environmental Protection Agency, Region IX

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II. FINAL ORDER

EPA and Respondent, having entered into the foregoing Consent Agreement, IT IS HEREBY ORDERED that this CAFO (Docket No. EPCRA-9-2009-0016) be entered, and Respondent shall pay a civil administrative penalty in the amount of SEVENTY-SEVEN THOUSAND DOLLARS (\$77,000), and comply with the terms and conditions set forth in the Consent Agreement.

07/19/10  
DATE

  
STEVEN JAWGIEL  
Regional Judicial Officer  
United States Environmental Protection Agency, Region IX

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CERTIFICATE OF SERVICE

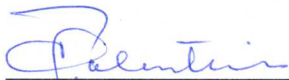
I certify that the original fully executed Consent Agreement and Final Order (“CAFO”), Docket Number EPCRA-09-2009-0016, was filed this day with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California, 94105, and that true and correct copies of the CAFO were sent to the Respondent and the presiding Administrative Law Judge at the following addresses:

Mr. Stephen J. Miller  
Vice President, Manufacturing  
Lubricating Specialties Company  
8015 Paramount Blvd.  
Pico Rivera, CA 90660

Certified Mail No: 7003 3110 0006 1999 9972

The Honorable Susan L. Biro  
Chief Judge  
U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Mailcode 1900L  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460

US EPA pouch mail



For: Steven Armsey  
Regional Hearing Clerk  
Region IX, EPA  
Office of Regional Counsel

7/20/10

Date