



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 5
 77 WEST JACKSON BOULEVARD
 CHICAGO, IL 60604-3590

APR 19 2018

REPLY TO THE ATTENTION OF:

Freedom S.N. Smith
 Ice Miller LLP
 One American Square
 Suite 2900
 Indianapolis, IN 46282-0200
 Freedom.Smith@icemiller.com

Re: Lin Gas, Inc. Consent Agreement and Final Order,
 Docket Nos. EPCRA-04-2017-2017(b) and **EPCRA-05-2018-0008**

Dear Ms. Smith:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on April 19, 2018.

Please have your client pay the EPCRA civil penalties in four installment payments as listed below and in the manner prescribed in paragraphs 106 and 107 of the CAFO. Reference your check with the docket numbers **EPCRA-05-2018-0008**.

| Installment | Due by | Payment |
|-------------|---|-------------|
| Payment #1 | Within 30 days of effective date of the CAFO | \$36,836.50 |
| Payment #2 | Within 180 days of effective date of the CAFO | \$37,296.96 |
| Payment #3 | Within 270 days of effective date of the CAFO | \$37,020.68 |
| Payment #4 | Within 360 days of effective date of the CAFO | \$36,928.59 |

Please feel free to contact Ginger Jager at (312) 886-0767 if you have any questions regarding the enclosed documents. Please direct any legal questions to Marcy A. Toney, Associate Regional Counsel, at (312) 886-3186. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M.E. Hahn", with a long horizontal stroke extending to the right.

Michael E. Hahn, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Jon England, IEMA (w/ enclosure)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

EPCRA-05-2018-0008

In the Matter of:

Lin-Gas, Inc.
Indiana & Kentucky

Respondent.



Docket Nos. EPCRA-04-2017-2017(b)

Proceeding to Assess a Civil Penalty
Under Section 325(c)(1) of the Emergency
Planning and Community Right-to-Know
Act of 1986

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 325(c)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c)(1), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is collectively, by lawful delegation, the Director of the Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5 and the Director of the Air, Pesticides and Toxics Management Division, Region 4, U.S. EPA.

3. Respondent is Lin-Gas, Inc., a corporation doing business in the state of Indiana and the Commonwealth of Kentucky.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370 require the owner or operator of a facility, which is required by the Occupational Safety and Health Act (OSHA) to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical, to prepare and submit to the state emergency response commission (SERC), community emergency coordinator for the local emergency planning committee (LEPC) and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter on March 1, an emergency and hazardous chemical inventory form (Tier 1 or Tier II as described in 40 C.F.R. Part 370). The form must contain the information required by Section 312(d) of EPCRA, covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity designated by U.S. EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

10. The information provided by owners and operators of facilities subject to the requirements of Section 312(a) of EPCRA assists SERCs, LEPCs and fire departments in planning for chemical emergencies and providing to the surrounding communities critical information regarding the presence of hazardous chemicals on-site that may present a risk of harm to human health and the environment. Failing to timely and accurately report this information could result in harm to human health and the environment.

11. Under 29 C.F.R. § 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, MSDSs.

12. Under Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), with certain exceptions, the term “hazardous chemical” has the meaning given such term by 29 U.S.C. § 1910.1200(c).

13. Under 29 C.F.R. § 1910.1200(c), a hazardous chemical is any chemical which is classified as a physical or health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified.

14. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 for each EPCRA Section 312 violation. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$32,500 per day of violation that occurred after March 15, 2004 through January 12, 2009; to \$37,500 per day of violation for violations that occurred after January 12, 2009 through November 2, 2015; to \$53,907 per day of violation for each violation that occurred after November 2, 2015 and assessed on or after August 1, 2016; to \$54,789 per day of violation that occurred after November 2, 2015 and assessed on or after January 15, 2017; and to \$55,907 per day of violation that occurred after

November 2, 2015, and assessed on or after January 15, 2018.

Factual Allegations and Alleged Violations

15. Respondent is a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

16. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 7323 N. SR. 159, Bicknell, Indiana, (Facility 1).

17. At all times relevant to this CAFO, Respondent was an employer at Facility 1.

18. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 3718 Upper Mt. Vernon Road, Evansville, Indiana, (Facility 2).

19. At all times relevant to this CAFO, Respondent was an employer at Facility 2.

20. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 533 E. Medcalf Street, Dale, Indiana, (Facility 3).

21. At all times relevant to this CAFO, Respondent was an employer at Facility 3.

22. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 1490 /W. 225 S., Princeton, Indiana (Facility 4).

23. At all times relevant to this CAFO, Respondent was an employer at Facility 4.

24. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 1784 Guthrie Highway, Elkton, Kentucky, (Facility 5).

25. At all times relevant to this CAFO, Respondent was an employer at Facility 5.

26. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 2270 S. Green Street, Henderson, Kentucky, (Facility 6).

27. At all times relevant to this CAFO, Respondent was an employer at Facility 6.

28. At all times relevant to this CAFO, Respondent was an owner or operator of the

facility located at 4075 US 431 N., Calhoun, Kentucky, (Facility 7).

29. At all times relevant to this CAFO, Respondent was an employer at Facility 7.

30. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 11390 Hanson Road, Slaughters, Kentucky, (Facility 8).

31. At all times relevant to this CAFO, Respondent was an employer at Facility 8.

32. Each of Respondent's eight facilities consist of buildings, equipment, structures and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

33. Each of Respondent's eight facilities is a "facility" as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

34. Propane is a flammable gas which may cause burns like frostbite if the liquid comes in contact with skin. If inhaled at high concentrations it can displace the normal air and cause suffocation from lack of oxygen.

35. Propane CAS# 74-98-6 is classified as a physical and health hazard.

36. Propane CAS# 74-98-6 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

37. OSHA requires Respondent to prepare, or have available, an MSDS for propane.

38. Propane CAS# 74-98-6 is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

39. Propane CAS# 74-98-6 has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

40. At all times relevant to this CAFO, the Indiana State Emergency Response Commission was the SERC for Indiana under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

41. At all times relevant to this CAFO , the Kentucky State Emergency Response Commission was the SERC for Kentucky under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

Facility 1 – Bicknell, Knox County, Indiana

42. At all times relevant to this CAFO , the Knox County Local Emergency Planning Committee was the LEPC for Knox County under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

43. At all times relevant to this CAFO, the Vigo Township Fire Department was the fire department with jurisdiction over Facility 1.

44. During at least one period of time in calendar years 2012 and 2013 propane was present at Facility 1 in an amount equal to or greater than the minimum threshold level.

45. Respondent was required to submit to the SERC, LEPC and fire department, on or before March 1, 2013, a completed emergency and hazardous chemical inventory form including propane for calendar year 2012, and on or before March 1, 2014 for calendar year 2013.

46. Respondent submitted to the SERC and Fire Department a completed Emergency and Hazardous Chemical Inventory Form including propane on August 1, 2014, for calendar years 2012 and 2013.

47. Each day that Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

48. Each day that Respondent failed to submit to the fire department a completed

Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Facility 2 – Evansville, Vanderburgh County, Indiana

49. At all times relevant to this CAFO, the Vanderburgh County Local Emergency Planning Committee was the LEPC for Vanderburgh County under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

50. At all times relevant to this CAFO, the Perry Township Fire Department was the fire department with jurisdiction over Facility 2.

51. During at least one period of time in calendar years 2012 and 2013 propane was present at Facility 2 in an amount equal to or greater than the minimum threshold level.

52. Respondent was required to submit to the SERC, LEPC and fire department, on or before March 1, 2013, a completed emergency and hazardous chemical inventory form including propane, for calendar year 2012, and on or before March 1, 2014 for calendar year 2013.

53. Respondent submitted to the SERC, LEPC and Fire Department a completed Emergency and Hazardous Chemical Inventory Form including propane on August 1, 2014, for calendar years 2012 and 2013.

54. Each day that Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

55. Each day that Respondent failed to submit to the LEPC a completed Emergency and

Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

56. Each day that Respondent failed to submit to the fire department a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, March 1, 2013, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Facility 3 – Dale, Spencer County, Indiana

57. At all times relevant to this CAFO, the Spencer County Local Emergency Planning Committee was the LEPC for Spencer County under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

58. At all times relevant to this CAFO, the Carter Township Fire Department was the fire department with jurisdiction over Facility 3.

59. During at least one period of time in calendar years 2012 and 2013 propane was present at Facility 3 in an amount equal to or greater than the minimum threshold level.

60. Respondent was required to submit to the SERC, LEPC and fire department, on or before March 1, 2013, a completed emergency and hazardous chemical inventory form including propane, for calendar year 2012, and on or before March 1, 2014 for calendar year 2013.

61. Respondent submitted to the SERC, LEPC and Fire Department a completed Emergency and Hazardous Chemical Inventory Form including propane on August 1, 2014, for calendar years 2012 and 2013.

62. Each day that Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar

year 2012, March 1, 2013, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

63. Each day that Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, March 1, 2013, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

64. Each day that Respondent failed to submit to the fire department a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Facility 4 – Princeton, Gibson County, Indiana

65. At all times relevant to this CAFO, the Gibson County Local Emergency Planning Committee was the LEPC for Gibson County under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

66. At all times relevant to this CAFO, the Princeton Fire Department was the fire department with jurisdiction over Facility 4.

67. During at least one period of time in calendar years 2012 and 2013 propane was present at Facility 4 in an amount equal to or greater than the minimum threshold level.

68. Respondent was required to submit to the SERC, LEPC and fire department, on or before March 1, 2013, a completed emergency and hazardous chemical inventory form including propane, for calendar year 2012, and on or before March 1, 2014 for calendar year 2013.

69. Respondent submitted to the SERC, LEPC and Fire Department a completed Emergency and Hazardous Chemical Inventory Form including propane on August 1, 2014, for

calendar years 2012 and 2013.

70. Each day that Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

71. Each day that Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

72. Each day that Respondent failed to submit to the fire department a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Facility 5 – Elkton, Todd County, Kentucky

73. At all times relevant to this CAFO, the Todd County Local Emergency Planning Committee was the LEPC for Todd County under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

74. At all times relevant to this CAFO, the Elkton City Fire Department was the fire department with jurisdiction over Facility 5.

75. During at least one period of time in calendar years 2012 and 2013 propane was present at Facility 5 in an amount equal to or greater than the minimum threshold level.

76. Respondent was required to submit to the SERC, LEPC and fire department, on or before March 1, 2013, a completed emergency and hazardous chemical inventory form including

propane, for calendar year 2012, and on or before March 1, 2014 for calendar year 2013.

77. Respondent submitted to the SERC and LEPC and Fire Department a completed Emergency and Hazardous Chemical Inventory Form including propane on July 11, 2014 for calendar year 2012 and on July 10, 2014 for calendar year 2013.

78. Each day that Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

79. Each day that Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

80. Each day that Respondent failed to submit to the fire department a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Facility 6 – Henderson, Henderson County, Kentucky

81. At all times relevant to this CAFO, the Henderson County Local Emergency Planning Committee was the LEPC for Henderson County under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

82. At all times relevant to this CAFO, the Henderson Fire Department was the fire department with jurisdiction over Facility 6.

83. During at least one period of time in calendar years 2012 and 2013 propane was

present at Facility 6 in an amount equal to or greater than the minimum threshold level.

84. Respondent was required to submit to the SERC, LEPC and fire department, on or before March 1, 2013, a completed emergency and hazardous chemical inventory form including propane, for calendar year 2012, and on or before March 1, 2014 for calendar year 2013.

85. Respondent submitted to the SERC and LEPC and Fire Department a completed Emergency and Hazardous Chemical Inventory Form including propane on July 11, 2014 for calendar year 2012 and on July 10, 2014 for calendar year 2013.

86. Each day that Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

87. Each day that Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

88. Each day that Respondent failed to submit to the fire department a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Facility 7 – Calhoun, McLean County, Kentucky

89. At all times relevant to this CAFO, the McLean County Local Emergency Planning Committee was the LEPC for McLean County under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

90. At all times relevant to this CAFO, the Livermore Fire Department was the fire department with jurisdiction over Facility 7.

91. During at least one period of time in calendar years 2012 and 2013 propane was present at Facility 7 in an amount equal to or greater than the minimum threshold level.

92. Respondent was required to submit to the SERC, LEPC and fire department, on or before March 1, 2013, a completed emergency and hazardous chemical inventory form including propane, for calendar year 2012, and on or before March 1, 2014 for calendar year 2013.

93. Respondent submitted to the SERC and LEPC and Fire Department a completed Emergency and Hazardous Chemical Inventory Form including propane on July 11, 2014 for calendar year 2012 and on July 10, 2014 for calendar year 2013.

94. Each day that Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

95. Each day that Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

96. Each day that Respondent failed to submit to the fire department a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Facility 8 – Slaughters, Webster County, Kentucky

97. At all times relevant to this CAFO, the Webster County Local Emergency Planning Committee was the LEPC for Webster County under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

98. At all times relevant to this CAFO, the South Hopkins Fire Department was the fire department with jurisdiction over Facility 8.

99. During at least one period of time in calendar years 2012 and 2013 propane was present at Facility 8 in an amount equal to or greater than the minimum threshold level.

100. Respondent was required to submit to the SERC, LEPC and fire department, on or before March 1, 2013, a completed emergency and hazardous chemical inventory form including propane, for calendar year 2012, and on or before March 1, 2014 for calendar year 2013.

101. Respondent submitted to the SERC and LEPC and Fire Department a completed Emergency and Hazardous Chemical Inventory Form including propane on July 11, 2014 for calendar year 2012 and on July 10, 2014 for calendar year 2013.

102. Each day that Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2012 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

103. Each day that Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, March 1, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

104. Each day that Respondent failed to submit to the fire department a completed

Emergency and Hazardous Chemical Inventory Form including propane by March 1, 2013 for calendar year 2012, and March 1, 2014 for calendar year 2013 constitutes two separate violations of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

Civil Penalty

105. Complainant has determined that an appropriate civil penalty to settle this action is \$147,346. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violation and any other matters as justice may require. Complainant also considered U.S. 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, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

Respondent must pay a \$147,346 civil penalty in four installments with interest as follows:

| <u>Installment</u> | <u>Due by</u> | <u>Payment</u> | <u>Principal</u> | <u>Interest (4%)</u> |
|--------------------|---|----------------|------------------|----------------------|
| Payment #1 | Within 30 days of effective date of CAFO | \$36,836.50 | \$36,836.50 | \$0.00 |
| Payment #2 | Within 180 days of effective date of CAFO | \$37,296.96 | \$36,836.50 | \$460.46 |
| Payment #3 | Within 270 days of effective date of CAFO | \$37,020.68 | \$36,836.50 | \$184.18 |
| Payment #4 | Within 360 days of effective date of CAFO | \$36,928.59 | \$36,836.50 | \$92.09 |
| Totals | | \$148,082.73 | \$147,346.00 | \$736.73 |

106. Each installment will be made by sending a cashier’s or certified check, payable to

“Treasurer, United States of America,” to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

In the comment section of each check state the following, In the Matter of: Lin Gas, Indiana and Kentucky, and the docket numbers EPCRA-04-2017-2017(b and EPCRA-05-2018-0008.

107. A transmittal letter, stating Respondent’s name, the case title and the case docket number must accompany each payment. Respondent must send a copy of each check and transmittal letter to:

Regional Hearing Clerk, (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Patricia Bullock
Regional Hearing Clerk
U.S. EPA, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

Ginger Jager, (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Marcy A. Toney, (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

108. This civil penalty is not deductible for federal tax purposes.

109. If Respondent does not timely pay the civil penalty, or any installment payments as set forth in paragraph 105 above, the entire unpaid balance of the civil penalty and any amount required under paragraph 110, below, shall become due and owing upon written notice by U.S. EPA to the Respondent of the delinquency. U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

110. Pursuant to 31 C.F.R. §901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

111. Consistent with the “Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules,” dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: toney.marcy@epa.gov (for Complainant), and Freedom.Smith@icemiller.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

112. This CAFO only resolves Respondent’s liability for federal civil penalties for the violations and facts alleged in the CAFO.

113. This CAFO does not affect the rights of U.S. EPA or the United States to pursue

appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

114. Respondent certifies that it is complying with Section 312 of EPCRA, 42 U.S.C. § 11022.

115. This CAFO does not affect Respondent's responsibility to comply with EPCRA and CERCLA and other applicable federal, state and local laws and regulations.

116. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

117. The terms of this CAFO bind Respondent and its successors and assigns.

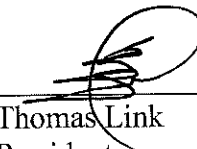
118. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

119. Each party agrees to bear its own costs and attorney's fees in this action.

120. This CAFO constitutes the entire agreement between the parties.

Lin-Gas, Inc., Indiana and Kentucky, Respondent

February 20, 2018
Date



Thomas Link
President
Lin-Gas, Inc.

U.S. Environmental Protection Agency, Complainant

3/26/2018
Date

Beverly H. Banister
Beverly H. Banister, Director
Air, Pesticides and Toxics Management Division
U.S. Environmental Protection Agency
Region 4

3/6/2018
Date

Robert A. Kaplan
Robert A. Kaplan, Acting Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

In the Matter of: Lin-Gas Inc., Indiana & Kentucky
Docket Nos. EPCRA-04-2017-2017(b and EPCRA-05-2018-0008

FINAL ORDER

The foregoing Consent Agreement having been considered by the undersigned is hereby ratified. The effective date of the foregoing Consent Agreement and Final Order is the date on which the Final Order signed by the Regional Judicial Officer for U.S. EPA Region 5 is filed with the Regional Hearing Clerk for U.S. EPA, Region 5.

APPROVED AND SO ORDERED this 11th day of April 2018.

April 11, 2018
Date

Tanya Floyd
Tanya Floyd
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 4

In the Matter of: Lin-Gas Inc., Indiana & Kentucky
Docket Nos. EPCRA-04-2017-2017(b and EPCRA-05-2018-0008

FINAL ORDER

The foregoing Consent Agreement having been considered by the undersigned is hereby ratified. This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Region 5 Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

march 7, 2018
Date

Ann L. Coyle
Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

In the Matter of: Lin-Gas Inc., Indiana and Kentucky
Docket Nos. EPCRA-04-2017-2017(b and EPCRA-05-2018-0008

Certificate of Service

I certify that I sent a true and correct copy of the foregoing Consent Agreement and Final Order, which was filed on April 19, 2018 in the following manner to the addressees:

Copy by e-mail to
Attorney for Respondent: Freedom S. N. Smith
Freedom.Smith@icemiller.com

Copy by e-mail to
Attorney for Complainant,: Marcy A. Toney
EPA, Region 5 Toney.marcy@epa.gov

Copy by e-mail to
Region 4: Erika White
white.erika@epa.gov

Copy by e-mail to
Region 4: Robert Caplan, Senior Attorney
caplan.robert@epa.gov

Copy by e-mail to
Regional Judicial Officer,
U.S. EPA, Region 5 Ann Coyle
coyle.ann@epa.gov

Copy by email to
Regional Judicial Officer
U.S. EPA, Region 4: Tanya Floyd
floyd.tanya@epa.gov

Copy by email to
Regional Hearing Clerk,
U.S. EPA, Region 4: Patricia Bullock
bullock.patricia@epa.gov

Dated:

April 19, 2018 

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5