



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
1650 ARCH STREET
PHILADELPHIA, PA 19103-2029

IN THE MATTER OF:

Lancaster Propane Gas, Inc.
2860 Yellow Goose Road
Lancaster, Pennsylvania 17601,

Respondent.

Lancaster Propane Gas Terminal
55 Maibach Lane
Mount Joy, Pennsylvania 17552,

Facility.

U.S. EPA-REGION 3-RHC
FILED-23JUL2019am8:49

EPA Docket Number
CAA-03-2019-0104DA

Proceeding Pursuant to
Section 113(a)(3)(B) of the
Clean Air Act, 42 U.S.C.
§ 7413(a)(3)(B)

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT

The parties to this Administrative Settlement Agreement and Order on Consent (“Order”), Lancaster Propane Gas, Inc. (“Respondent” or “LPGI”) and the United States Environmental Protection Agency (“EPA” or “the Agency”), having agreed to the entry of this Settlement Agreement, it is therefore ordered, that:

I. JURISDICTION AND GENERAL PROVISIONS

1. This Order is issued pursuant to Section 113(a)(3) of the Clean Air Act (“CAA” or “the Act”), 42 U.S.C. § 7413(a)(3)(B). Under Section 113(a)(3)(B) of the Act, the Administrator of EPA has the authority to issue orders requiring any person who is in violation of certain sections of the CAA, including Section 112(r)(7), 42 U.S.C. § 7412(r)(7), to comply with such requirements of the CAA. Under Delegation No. 7-6-A, the Administrator has delegated this authority to issue orders within the geographical jurisdiction of EPA Region III to the Regional Administrator of EPA Region III, and the Regional Administrator has re-delegated this authority to the Director of Region III’s Hazardous Site Cleanup Division. For purposes of this Order, the geographical jurisdiction of EPA Region III includes the Commonwealth of Pennsylvania.

2. All terms and conditions, including any modifications hereto, are required by this Order. The Respondent agrees to undertake all actions required by the terms and conditions of this Order and to comply with all such terms and conditions.

3. The Respondent consents to and will not contest EPA's authority or jurisdiction to issue or to enforce this Order. The Respondent neither admits nor denies the factual and legal allegations in this Order.

4. This Order requires Respondent to comply with the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68, as specifically set forth herein, by ensuring that the equipment at the facility identified in the caption of this Order complies with recognized and generally accepted good engineering practices.

II. STATUTORY AND REGULATORY BACKGROUND

5. On November 15, 1990, the President signed into law the CAA Amendments of 1990. The Amendments added Section 112(r) to the CAA, 42 U.S.C. § 7412(r), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3).

6. Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), mandates the Administrator to promulgate a list of regulated substances, with threshold quantities, and defines the stationary sources that will be subject to the accident prevention regulations mandated by Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7). Specifically, Section 112(r)(7) requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for these listed regulated substances. The list of regulated substances and threshold levels are codified at 40 C.F.R. § 68.130.

7. 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) of the CAA, 42 U.S.C. § 7412(r)(7), ("Regulations"). 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 ("RMP") for the facility that must be submitted to EPA. The RMP 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 the event of an accidental release of a regulated substance, to protect human health and the environment.

8. Pursuant to Section 112(r)(7)(B)(iii) of the CAA, 42 U.S.C. § 7412(r)(7)(B)(iii), and the Regulations at 40 C.F.R. §§ 68.10(a) and 68.150(a), the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity must submit an RMP to EPA no later than the latter of June 21, 1999, or the date on which a regulated substance is first present above the threshold quantity in a process.

III. DEFINITIONS

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

10. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” as including an individual, corporation, partnership, association, State, municipality, political subdivision of a State and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

11. 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, 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.

12. 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 in 40 C.F.R. § 68.130.

13. As used herein, the term “day” shall mean calendar day.

14. The term “process” is defined at 40 C.F.R. § 68.3 to mean, in relevant part, “any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances or combination of these activities.”

15. “Effective Date” shall mean the date upon which Respondent receives a fully executed copy of this Order as set forth in Section XII of this Order.

IV. FINDINGS OF FACT

16. Respondent, Lancaster Propane Gas, Inc., is a corporation organized in the Commonwealth of Pennsylvania in 1949.

17. Respondent owns and operates a liquefied petroleum gas plant located at 55 Maibach Avenue in Mount Joy, Lancaster County, Pennsylvania ("Facility").

18. At all times relevant to this Order, as stated in Respondent's RMP for the Facility, Respondent has handled and handles a maximum of approximately 3,548,000 pounds of propane and 761,400 pounds of butane at the Facility.

19. EPA conducted an inspection of the Facility on October 17, 2018 ("Inspection") to determine Respondent's compliance with CAA Section 112(r)(1) and (7) and the Chemical Accident Prevention Provisions at 40 C.F.R. Part 68.

20. Respondent submitted an initial RMP for the Facility in 2003. Several resubmissions and corrections have been made since the original submission, with the latest update submitted to EPA in 2018.

21. According to Respondent's RMP for the Facility, propane and butane have been present at the Facility in amounts greater than 10,000 pounds each since at least 2003.

22. Based on information collected by EPA during the Inspection, EPA determined that Respondent did not comply with the Chemical Accident Prevention Provisions as set forth in the following paragraphs:

Process Safety Information

23. The Chemical Accident Prevention Provisions require the owner or operator of a stationary source to compile written process safety information relevant to the equipment in the process, including process safety information pertaining to design codes and standards, 40 C.F.R. § 68.65(a), § 68.65(d)(1)(vi). The purpose of compiling written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information must include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process. 40 C.F.R. § 68.65(b)-(d). During the EPA Inspection, Respondent presented safety data sheets, oral inventory information, safety system information in the fire safety analysis, and generic guidance from the Propane Education and Research Council. Respondent was missing substantial amounts of the required process safety information.

24. The owner or operator must also document that its equipment complies with recognized and generally accepted good engineering practices, 40 C.F.R. § 68.65(d)(2). The term "recognized and generally accepted good engineering practices" includes the following

industry standards: National Fire Protection Association (“NFPA”) 58, *Liquefied Petroleum (LP) Gas Code* (2011) (“NFPA 58-2011”); and *International Fire Code*, 2015 (“IFC”).

25. EPA Inspectors observed conditions at the Facility indicating that the stationary source equipment did not meet the safety standards of recognized and generally accepted good engineering practices, including the following:

- a. Piping in contact with the ground was not protected from corrosion, in accordance with NFPA 58-2011, § 6.9.3.11, which requires the portion of aboveground piping in contact with a support or a corrosion-causing substance shall be protected against corrosion. EPA Inspectors observed piping in the area of the southeastern-most railcar unloading station that was not protected as it entered the ground and as it entered railroad ballast. EPA Inspectors also observed piping in the propane transfer pump area that was not wrapped and may not have cathodic protection.
- b. Containers constructed in accordance with the American Society of Mechanical Engineers (“ASME”) code were not marked in accordance with NFPA 58-2011, § 5.2.8.3, which requires nameplates with specified information. EPA Inspectors observed ASME tanks with missing or illegible nameplates in the propane aboveground storage tank area.
- c. Tanks with hazardous materials were not labeled in accordance with the IFC, § 5003.5, which requires hazard identification signs. EPA inspectors observed three tanks in the propane aboveground storage tank area that were full of propane and did not have proper labeling.
- d. Facilities with flammable gases in ASME containers must conduct a fire safety analysis to specify the modes of fire protection. NFPA 58-2011, § 6.25.3. NFPA and the National Propane Gas Association developed the Fire Safety Analysis (“FSA”) Manual for LP-Gas Storage Facilities for this purpose. Facility personnel provided two FSAs to EPA. EPA Inspectors reviewed the most recent FSA, dated 2017, and identified possible non-conformance with NFPA 58 requirements, no certification, and several factual errors, including the failure to list all tanks in all of the forms and the computation of the total fire water requirement needed for the Facility.
- e. Based on information submitted by Respondent to EPA, Respondent has addressed the piping issues discussed in Paragraph 26.a, the signage issues discussed in Paragraph 26.c, and is in the process of addressing the tank marking issues discussed in Paragraph 26.b.

Process Hazard Analysis

26. The owner or operator must perform an initial process hazard analysis on the covered processes, 40 C.F.R. § 68.67(a), and update the process hazard analysis every five years, 40 C.F.R. § 68.67(f). The owner or operator must retain process hazard analyses and updates or revalidations, as well as documented resolution of recommendations made during the process hazard analysis, 40 C.F.R. § 68.67(g). Respondent did not provide any process hazard analyses to EPA during the inspection. The June 14, 2018 RMP lists April 13, 2013 as its most recent process hazard analysis and does not indicate that a five-year update or revalidation was done in April 2018.

Operating Procedures

27. The owner or operator must develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process and shall address the steps of each operating phase (including phases related to an emergency), operating limits, safety and health considerations, and safety systems and their functions. 40 C.F.R. § 68.69(a). The owner or operator must annually certify that the procedures are current and accurate. 40 C.F.R. § 68.69(c). Respondent provided operating procedures for loading and unloading, and generic operating procedures for startup, operation, shutdown. But Respondent did not provide operating procedures that addressed emergency shutdown, emergency operations, and startup after an emergency. In addition, Respondent did not provide annual certification of operating procedures. Based on information provided by Respondent to EPA, Respondent has revised its operating procedures to address the identified issues.

Mechanical Integrity

28. The owners or operator must establish and implement written procedures to maintain the ongoing integrity of the process equipment, 40 C.F.R. § 68.73(b), train each employee involved in maintenance, 40 C.F.R. § 68.73(c), and conduct inspections and tests on process equipment and maintain records of such inspections and tests, 40 C.F.R. § 68.73(d). Respondent provided to EPA only generic maintenance procedures and checklists that did not specify frequency of inspections for all Facility equipment, including pressure relief valves, and did not include procedures for lock-out/tag-out, line-breaking, and confined space entry. Respondent did not provide any documentation of maintenance training for employees. Respondent provided inspection records for 2006 through 2011 but not afterwards, and the records did not address the frequency of the inspections.

Management of Change/Pre-Startup Safety Review

29. The owner or operator must establish written procedures to manage changes to process chemicals, technology, equipment and procedures and changes to stationary sources that

affect a covered process. 40 C.F.R. § 68.75(a). The procedures must address the technical basis for the proposed change, the impact of the change on safety and health, modifications to operating procedures, necessary time period, and authorization requirements. 40 C.F.R. § 68.75(b). Employees must be informed and trained, and if necessary, process safety information and operating procedures must be updated. 40 C.F.R. § 68.75(c)-(e). The owner or operator must perform a pre-startup safety review for new stationary sources and for modified stationary sources when the modification is significant enough to require a change in the process safety information. 40 C.F.R. § 68.77(a). This pre-startup safety review must confirm that construction and equipment is in conformance with design specifications, that procedures are in place and are adequate, and that employee training has been completed. 40 C.F.R. § 68.77(b). Respondent experienced a railcar fire at the Facility in July 2013, after which vent lines were added to the liquid pots for the compressors between the railcars to prevent venting near the compressors in the loading area. The modification would have required a change to the process safety information, namely a calculation of the proper size of the piping vents and a change to the piping and instrumentation design. Yet, there is no documentation that Respondent ever performed piping calculations, revised its piping and instrumentation drawings or its operating procedures, or trained its personnel in repair or replacement to address this equipment change as part of management of change procedures, or that Respondent conducted a pre-startup safety review.

Compliance Audit

30. The owner or operator must certify that it has evaluated compliance with Subpart D of the Chemical Accident Prevention Provisions, the Program 3 Prevention Program, every three years to verify that procedures and practices are adequate and are being followed. 40 C.F.R. § 68.79. Respondent has not provided to EPA any documentation that it has complied with the compliance audit requirements.

Employee Participation Plan

31. The owner or operator must develop a written plan of action to consult with and provide information to employees on the conduct and development of process hazard analyses and other elements of process safety management. 40 C.F.R. § 68.83. Respondent has not provided to EPA any documentation that it has an employee participation plan.

Contractor Safety

32. The owner or operator using contractors for maintenance or repair, turnaround, major renovations or specialty work must ensure that the contractor's safety performance and programs are adequate, provide information regarding process safety hazards to the contractor, develop safe work practices for entries and exits, and periodically evaluate performance of the

contract owner. 40 C.F.R. § 68.87. Respondent has not provided to EPA any documentation of a contractor safety program at the Facility.

V. CONCLUSIONS OF LAW

33. As a corporation, Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and the owner and operator of the Facility.

34. The Facility is a “stationary source” pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C).

35. Respondent has been the owner and operator of a “stationary source” at all times relevant to this Order.

36. Propane and butane each constitute a “regulated substance” for purposes of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), because each is listed pursuant to Section 112(r)(3) of the CAA, at 40 C.F.R. § 68.130.

37. The threshold quantity for propane is 10,000 pounds, pursuant to 40 C.F.R. § 68.130, Table 3.

38. The threshold quantity for butane is 10,000 pounds, pursuant to 40 C.F.R. § 68.130, Table 3.

39. More than a threshold quantity of a regulated substance is present in a process at the Facility.

40. Respondent is subject to the requirements of Section 112(r)(7) of the CAA, 40 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68, at the Facility because Respondent is the owner and operator of a stationary source that has more than a threshold quantity of a regulated substance in a process.

VI. FINDINGS OF VIOLATION

41. Based on information available to EPA, including information gathered during the Inspection performed by EPA at the Facility, and the Findings of Fact and Conclusions of Law set forth above, EPA has determined that Respondent violated Section 112(r)(7), 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68, with respect its storage and handling of propane and butane at the Facility, as detailed in Paragraphs 23 to 32 above.

VII. ORDER

42. EPA hereby issues this Order to Respondent under the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), to address the outstanding violations of the Chemical Accident Prevention Provisions alleged in Section IV, Findings of Fact and Section V, Conclusions of Law. Respondent neither admits nor denies the Findings of Fact and Conclusions of Law stated above, and will not contest EPA's authority to enforce provisions of this Order. However, Respondent agrees to undertake the actions and provide the information specified below.

43. Respondent shall undertake the following requirements ("Work"):
- a. Within thirty (30) days of the effective date of this Order, identify a person, subject to acceptance by EPA, competent to undertake the implementation of improvements to the Facility to address the conditions described in Paragraphs 23-24, 25.b. and d., and 26-32, above. The Work shall also include submission of an updated RMP in accordance with 40 C.F.R § 68.190. The Work shall be consistent with the safety protection provided by the industry standards NFPA 58, the IFC and other applicable industry codes or standards;
 - b. Within forty-five (45) days of receipt of EPA's written acceptance of the person competent to undertake the Work, Respondent shall submit to EPA for approval a work plan and schedule ("Workplan and Schedule") for the Work;
 - c. EPA will review the Workplan and Schedule submitted pursuant to subparagraph 43.b, and will either accept it or direct Respondent to make changes and resubmit the document within twenty (20) days;
 - d. Within seven (7) days of receipt of EPA's written acceptance of the Workplan and Schedule, submitted pursuant to subparagraph 43.b, Respondent shall initiate implementation of the EPA-accepted Workplan and complete the Workplan in accordance with the EPA-accepted Schedule;
 - e. On the one-month anniversary of the Effective Date of this Order, and each thirty (30) days thereafter, Respondent shall submit a written monthly progress report to EPA detailing steps taken during the preceding month to implement the EPA-accepted Workplan in accordance with the EPA-accepted Schedule;
 - f. Within thirty (30) days after completing the work in accordance with the EPA-accepted Workplan and Schedule at the Facility, Respondent shall

submit to EPA, for EPA's approval, a written report verifying that Respondent has complied with the requirements of subparagraph 43.d at the Facility ("Completion Report"). The Completion Report, with the following certification, shall be signed by a responsible official of Respondent, as such term is defined in paragraph 44, below:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

- g. EPA will review the Completion Report submitted pursuant to subparagraph 43.f, above, and will either approve it in writing or identify deficiencies in writing ("Notice of Work Deficiencies") and direct Respondent to correct and/or re-perform any or all Work disapproved by EPA and resubmit the report for EPA approval within thirty (30) days of receiving the Notice of Work Deficiencies associated with the Completion Report.

44. Any notice, report, plan, certification, data presentation or other document submitted by Respondent under or pursuant to this Order which discusses, describes, demonstrates or supports any finding or makes any representation concerning Respondent's compliance or non-compliance with any requirement(s) of this Order shall be certified by a responsible official of said Respondent. The term "responsible official" means: (i) the president, secretary or vice-president of the corporation in charge of principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. The responsible official of a partnership or sole proprietorship means the general partners or the proprietor, respectively.

45. Respondent shall provide EPA and its representatives, including contractors and grantees, with access to the Facility for the purpose of assessing Respondent's compliance with this Order and with the CAA. Respondent shall also provide EPA and its representatives, including contractors and grantees, with access to all records relating to Respondent's implementation of this Order, and shall comply with all requests for information pertaining to this Order.

46. Respondent shall preserve all documents and information relating to the activities carried out pursuant to this Order for six (6) years after completion of the Work required by this Order. Upon request, Respondent shall provide EPA with copies of such documents and information.

47. All documents submitted by Respondent to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by the Respondent pursuant to 40 C.F.R. Part 2, Subpart B, and determined by EPA to require treatment as confidential business information in accordance with applicable law.

VIII. PARTIES BOUND

48. This Order shall apply to and be binding upon Respondent, its agents, successors, and assigns and upon all persons, contractors and consultants acting under or for the Respondent, or persons acting in concert with Respondent who have actual knowledge of this Order or any combination thereof with respect to matter addressed in this Order. No change in ownership or corporate or partnership status of the Respondent will in any way alter the status of the Respondent or its responsibilities under this Order.

IX. WRITTEN NOTICES

49. Information required to be submitted to EPA under this Order must be sent to:

Michael Welsh, P.E., Risk Management Program Coordinator
U.S. Environmental Protection Agency, Region III
1650 Arch Street (3ED12)
Philadelphia, Pennsylvania 19103-2029
Phone: (215) 814-3285
welsh.mike@epa.gov

Copies shall be sent to:

Cynthia T. Weiss, Esq.
Office of Regional Counsel
U.S. Environmental Protection Agency
1650 Arch Street (3RC20)
Philadelphia, PA 19103-2029
Phone: (215) 814-2659
weiss.cynthia@epa.gov

50. Information required to be submitted to Respondent under this Order must be sent to:

Chuck Lauthers, Operations Manager
Lancaster Propane Gas Terminal
55 Maibach Lane
Mount Joy, PA 17552
Mobile: (717) 808-1102
chucklancasterpropane@gmail.com

X. EFFECT OF ORDER

51. As set forth in Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), nothing in this Order shall prevent EPA from assessing any penalties, or otherwise affect or limit the United States' authority to enforce other provisions of the CAA, or affect any person's obligations to comply with any Section of the CAA, or with any regulation, term or condition of any permit, or applicable implementation plan promulgated, issued or approved under the CAA. Further, nothing in this Order shall limit or otherwise preclude the United States from taking criminal or additional civil judicial or administrative enforcement action against the Respondent or any third parties with regard to the Facility pursuant to any federal or state law, regulation or permit condition. Nothing in this Order shall limit or otherwise preclude the United States from taking criminal or additional civil judicial or administrative enforcement action against the Respondent for Respondent's failure to comply with any of the requirements of this Order.

XI. ENFORCEMENT

52. Failure to comply with this Order may result in a civil judicial or administrative action for an injunction and/or civil penalties of up to \$46,162 per day of violation, pursuant to Section 113(b) and (d) of the CAA, 42 U.S.C. § 7413(b) and (d), the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, et seq., as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, et seq., and Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Parts 19. EPA retains full authority to enforce the requirements of the Act, 42 U.S.C. §§ 7401-7642, and nothing in this Order shall be construed to limit this authority.

53. Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any issue of fact or law set forth in this Order, including, but not limited to, any right of judicial review of the Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-708. This Order shall not relieve Respondent of its obligation to comply with all applicable federal, state, and local laws, regulations and other legal requirements, including but not limited to Section 112(r)

of the CAA, 42 U.S.C. § 7412(r), nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

54. As set forth in Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), nothing in this Order shall prevent EPA from assessing any penalties, or otherwise affect or limit the United States' authority to enforce other provisions of the CAA, or affect any person's obligations to comply with any Section of the CAA, or with any regulation, term or condition of any permit, or applicable implementation plan promulgated, issued or approved under the CAA. Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of a regulated substance, extremely hazardous substance, or other hazardous substance on, at, or from the Facility. This Order shall not constitute or be construed as a release of any liability that the Respondent or any other person may have under the CAA, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675, or any other law.

55. Neither EPA nor the United States, by issuance of this Order, assumes any liability for any acts or omissions by Respondent or Respondent's employees, agents, contractors, or consultants engaged to carry out any action or activity pursuant to this Order, nor shall EPA or the United States be held as a party to any contract entered into by Respondent or by Respondent's employees, agents, contractors, or consultants engaged to carry out the requirements of this Order.

XII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

56. This Order shall be effective upon receipt by the Respondent of a fully executed copy of the Order.

57. Any reports, plans, specifications, schedules, or other submissions required by this Order are, upon acceptance by EPA, incorporated into this Order. Any non-compliance with such EPA-accepted reports, plans, specifications, schedules, or other submissions shall be considered non-compliance with the requirements of this Order.

58. No informal advice, guidance, suggestions or comments by EPA regarding reports, plans, specifications, schedules, or other submissions by the Respondent or the requirements of this Order will be construed as relieving the Respondent of its obligation to obtain formal acceptance when required by this Order, and to comply with the requirements of this Order unless formally modified.

59. This Order may be modified or amended in a writing executed by the Director of the Enforcement and Compliance Assurance Division and Respondent. Such modifications or amendments shall be effective on the date they are fully executed by Respondent and the

Director of the Enforcement & Compliance Assurance Division or such other date as set by the Director of the Enforcement & Compliance Assurance Division. Minor modifications to the Order and/or schedule thereto may be approved by EPA's Risk Management Program Coordinator Michael Welsh, P.E.

XIII. CALCULATION OF TIME

60. Any reference to "days" in this Order shall mean calendar days, unless otherwise specifically provided herein. Any reference to "business days" shall mean every day of the week except Saturdays, Sundays and federal holidays.

XIV. FAILURE TO PERFORM/PERFORMANCE EVENTS

61. In the event of an inability or anticipated inability on the part of the Respondent to perform any of the actions required by this Order in the time and manner required herein, the Respondent shall notify EPA orally within twenty-four (24) hours of such event (or, if the event occurs on a Friday or Saturday, Sunday, or legal holiday, no later than the following business day) and in writing as soon as possible, but in no event more than three (3) days after such event. Such notice shall set forth the reason(s) for, and the expected duration of, the inability to perform; the actions taken and to be taken by Respondent to avoid and mitigate the impact of such inability to perform; and the proposed schedule for completing such actions. Such notification shall not relieve Respondent of any obligation of this Order. Respondent shall take all reasonable actions to prevent and minimize any delay.

62. Failure by Respondent to carry out any requirement of this Order in accordance with the terms and conditions specified herein may result in the initiation of an enforcement action against Respondent to require Respondent to perform such actions, in addition to any other relief that may be available to EPA pursuant to applicable law. Respondent reserves all rights, claims and defenses to respond to any enforcement by EPA pursuant to this paragraph or under any authority.

63. Nothing in this Section or any other provision of this Order shall be construed so as to limit any powers EPA may have under the CAA or any other law or regulation, nor shall they be construed so as to limit any defenses that Respondent may have under the CAA or otherwise.

XV. SEVERABILITY

64. If any provision or authority of this Order, or the application of this Order to any party or circumstances, is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order shall remain in full force and not be affected thereby.

XVI. TERMINATION AND SATISFACTION

65. When EPA determines, after EPA's review and approval of the Completion Report required pursuant to this Order, that all Work specified in Section VII of this Order has been fully performed, EPA will provide a notice of termination to the Respondent.

66. The provisions of this Order shall be deemed terminated upon Respondent's completion of all actions specified in Section VII. Termination of this Order shall not, however, terminate Respondent's obligation to comply with any continuing obligations of any federal, state or local law, statute, ordinance, rule or regulation, and all continuing obligations shall continue as they did before the termination of the Order.

**XVII. COPIES OF SETTLEMENT AGREEMENT
AND ADMINISTRATIVE ORDER ON CONSENT**

67. Copies of this Order will be provided to:

William Weaver
Environmental Program Manager, Air Quality Program
Pennsylvania Department of Environmental Protection
South Central Regional Office
909 Elmerton Avenue
Harrisburg, PA 17110

Krish Ramamurthy, Director
Bureau of Air Quality
Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building, 12th Floor
P.O. Box 8468
Harrisburg, Pennsylvania 17105-8468

Lancaster Propane Gas, Inc.

Docket No. CAA-03-2019-0104DA

FOR LANCASTER GAS PROPANE, INC.



Paul S. Wheaton
Chairman and CEO

July 2, 2019
Date

Lancaster Propane Gas, Inc.

Docket No. CAA-03-2019-0104DA

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:



Date: JUL 22 2019

Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. Environmental Protection Agency, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 3

1650 ARCH STREET

PHILADELPHIA, PA 19103-2029

U.S. EPA-REGION 3-RHC
FILED-23JUL2019AM9:29

In the Matter of:

Lancaster Propane Gas, Inc.
2860 Yellow Goose Road
Lancaster, Pennsylvania 17601,

RESPONDENT.

Lancaster Propane Gas Terminal
55 Maibach Lane
Mount Joy, Pennsylvania 17552,

FACILITY.

EPA Docket Number
CAA-03-2019-0104DA

Proceeding Under
Section 113(a)(3)(B) of the
Clean Air Act, 42 U.S.C.
§ 7413(a)(3)(B)

CERTIFICATE OF SERVICE

I certify that on July 23, 2019, the original and one (1) copy of foregoing *Consent Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Certified Mail, Return Receipt Requested, Postage Prepaid**, to:

Chuck Lauthers, Operations Manager
Lancaster Propane Gas Terminal
55 Maibach Lane
Mount Joy, PA 17552

Copy served via **Hand Delivery or Inter-Office Mail** to:

Cynthia T. Weiss
Senior Assistant Regional Counsel
Office of Regional Counsel (3RC20)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
(Attorney for Complainant)

Dated: JUL 23 2019

Bethina L. Dunn
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

TRACKING NUMBER(S): 70171450000020790971