UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
Dallas, Texas

In the Matter of	§	
	§	
Gas Innovations Inc.,	§	**Docket No. CAA-06-2022-3363**
	§	
	§	
Respondent.	§	

ADMINISTRATIVE ORDER ON CONSENT

Preliminary Statement

1. The U.S. Environmental Protection Agency, Region 6 ("EPA" or "Complainant"), and Gas Innovations Inc. ("Respondent") have agreed to voluntarily enter into this Administrative Order on Consent ("Order") for the purposes of carrying out the goals of Section 112(r) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68.

Jurisdiction

2. This Order is entered into pursuant to the authority of Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B). Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), provides that whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any other requirement or prohibition of Subchapter I of the CAA, which includes, among other things, the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder, the Administrator may issue an order requiring compliance with such requirement or prohibition.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division, EPA, Region 6, as duly delegated by the Administrator of the EPA and the Regional Administrator, EPA, Region 6.

4. Respondent is Gas Innovations Inc., a company formed in the state of Texas and authorized to conduct business in the state of Texas.

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 Title I of the CAA, 42 U.S.C. § 7412(r). The objective of Section 112(r) is to minimize the consequences of any such release of any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance.

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 which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. Section 112(r)(5) of the CAA, 42 U.S.C. § 7412(r)(5), mandates that the Administrator establish a threshold quantity for any substance listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). The list of regulated substances and respective threshold quantities is codified at 40 C.F.R. § 68.130.

7. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires the Administrator to promulgate regulations that address release prevention, detection, and correction requirements for stationary sources with threshold quantities of regulated substances listed pursuant to Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3). On June 20, 1996, EPA promulgated a final rule

known as the Risk Management Program, 40 C.F.R. Part 68 – Chemical Accident Prevention Provisions, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

8. The regulations at 40 C.F.R. Part 68 require owners and operators to develop and implement a Risk Management Program at each stationary source with over a threshold quantity of regulated substances. The Risk Management Program must include, among other things, a hazard assessment, a prevention program, and an emergency response program. The Risk Management Program is described in a Risk Management Plan (RMP) that must be submitted to the EPA.

9. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, an RMP must be submitted for all covered processes by the owner or operator of a stationary source subject to 40 C.F.R. Part 68 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.

10. The regulations at 40 C.F.R. § 68.10 set forth how the Chemical Accident Prevention Provisions of 40 C.F.R. Part 68 apply to each program level of covered processes. Pursuant to 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 requirements if the process does not meet the requirements of Program 1, as described in 40 C.F.R. § 68.10(g), and if it is in a specified North American Industrial Classification System code or is subject to the OSHA process safety management standard, 29 C.F.R. 1910.119.

Definitions

11. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines "person" to include any 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.

12. Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), and the regulation at 40 C.F.R. § 68.3 defines "accidental release" as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

13. Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C) and the regulation at 40 C.F.R. § 68.3 defines "stationary source," in part, as 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.

14. Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3 define "regulated substance" as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

15. The regulation at 40 C.F.R. § 68.3 defines "threshold quantity" as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, as amended, listed in 40 C.F.R. § 68.130 and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

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

17. The regulation at 40 C.F.R. § 68.3 defines "covered process" as a process that has a regulated substance present in more than a threshold quantity as determined under 40 C.F.R. § 68.115.

EPA Findings of Fact and Conclusions of Law

18. 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).

19. Respondent is the owner and operator of the facility located at: 18005 E. Hwy 225, La Porte, TX 77571 (the "Facility").

20. Pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, the EPA conducted an inspection of the Facility between March 29-31, 2022, to determine Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68 (the "Inspection").

21. On May 11, 2022, the EPA sent Respondent a Notice of Potential Violation and Opportunity to Confer letter ("NOPVOC"). On June 3, 2022, the EPA responded to the documentation and information received from Respondent as a result of the NOPVOC and articulated the EPA's position concerning Respondent's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r). On June 15, 2022, Respondent informed the EPA of Respondent's agreement to evaluate and resolve potential violations of CAA Section 113(d), 42 U.S.C. § 7413(d) pursuant to an Administrative Compliance Order, and to resolve Respondent's liability for federal civil penalties for alleged violations herein pursuant to a Consent Agreement and Final Order.

22. The Facility is a "stationary source" pursuant to Section 112(r)(2)(C) of the CAA, 42 U.S.C. 7412(r)(2)(C), and the regulation at 40 C.F.R. § 68.3.

23. The Respondent is a wholesale gas supplier. Operations include the filling, storing, and transfer of industrial gases. The facility receives bulk gases in tanker trailers and then transfers the gases to storage tanks before again transferring them to smaller containers or back into tanker trailers for wholesale. Additionally, the facility receives nearly empty bulk trailers and containers that must be emptied before refilling. Some of the containers are refurbished through welding, sand blasting, and painting before being put back into circulation. The two main operations at the facility are the high-pressure operations and the low-pressure operations. Each of these operations at the Facility meet the definition of "process" as defined by 40 C.F.R. § 68.3.

24. Ethane, Methane, Ethylene, Propylene, Propane, 1-Butene, Butane, 2-Methylpropane, Isobutane, and Isopentane are each a "regulated substance" pursuant to Section 112(r)(2)(B) of the CAA, 42 U.S.C. § 7412(r)(2)(B), and the regulation at 40 C.F.R. § 68.3. The threshold quantity for Ethane, Methane, Ethylene, Propylene, Propane, 1-Butene, Butane, 2-Methylpropane, Isobutane and Isopentane, as listed in 40 C.F.R. § 68.130, is 10,000 pounds. Hydrogen chloride (Anhydrous) is a toxic chemical with a threshold quantity, as listed in 40 C.F.R. § 68.130, of 5,000 pounds.

25. Respondent has greater than a threshold quantity of Ethane, Methane, Ethylene, Propylene, Propane, 1-Butene, Butane, 2-Methylpropane, Isobutane, Isopentane, and Hydrogen chloride (Anhydrous) ("Regulated Substances") in a process at the Facility meeting the definition of "covered process" as defined by 40 C.F.R. § 68.3.

26. From the time Respondent first had on-site greater than a threshold quantity of the Regulated Substances in a process, Respondent was subject to the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. Part 68 because it was the owner or

operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

27. From the time Respondent first had on-site greater than a threshold quantity of the Regulated Substances in a process, Respondent was required to submit an RMP pursuant to 40 C.F.R. § 68.12(a) and comply with the Program 3 prevention requirements because, pursuant to 40 C.F.R. § 68.10(i), the covered process at the Facility did not meet the eligibility requirements of Program 1 and is in North American Industry Classification System code 42471 and 42469.

EPA Findings of Violation

28. The facts stated in the EPA Findings of Fact and Conclusions of Law above are herein incorporated.

29. Complainant hereby states and alleges that Respondent has violated the CAA and federal regulations promulgated thereunder as follows:

Violation 1: Management

30. The regulation at 40 C.F.R. § 68.15(a)(b)(c) provides that: (a) the owner or operator of a stationary source with processes subject to Program 2 or Program 3 shall develop a management system to oversee the implementation of the risk management program elements; (b) the owner or operator shall assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements; and (c) when responsibility for implementing individual requirements of this part is assigned to persons other than the person identified under paragraph (b) of this section, the names or positions of these people shall be documented, and the lines of authority defined through an organization chart or similar document.

31. At the time of the Inspection, Respondent had not developed a management system to oversee the implementation of the risk management program; assigned a qualified person with the responsibility of development, implementation, and integration of the risk management program; or documented lines of authority through an organization chart or similar document.

32. Respondent's failure to develop a management system for the risk management program; assign a qualified person to develop, implement, and integrate the risk management program; and document lines of authority pursuant to 40 C.F.R. § 68.15(a)(b)(c) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Violation 2: Process Safety Information

33. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.65(d)(2) requires that the owner or operator shall document that equipment complies with recognized and generally accepted good engineering practices.

34. At the time of the Inspection, Respondent had not documented that covered process equipment located in the low-pressure dock area and the high-pressure area, including the hydrogen chloride refilling area, complied with recognized and generally accepted good engineering practices (RAGAGEP).

35. Respondent's failure to document that certain covered process equipment complied with RAGAGEP in accordance with 40 C.F.R. § 68.65(d)(2), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Violation 3: Process Hazard Analysis

36. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.67(a), the owner or operator shall perform an initial process hazard analysis (hazard evaluation) on processes covered by this part. The process hazard analysis shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards involved in the process. The owner or operator shall determine and document the priority order for conducting process hazard analysis based on a rationale which includes such considerations as extent of the process hazards, number of potentially affected employees, age of the process, and operating history of the process. The process hazard analysis shall be conducted as soon as possible, but not later than June 21, 1999. Process hazards analyses completed to comply with 29 C.F.R. 1910.199(e) are acceptable as initial process hazards analyses. These process hazards analyses shall be updated and revalidated, based on their completion date.

37. At the time of the Inspection, Respondent had not conducted an initial process hazard analysis at the time it started up operations in 2013 or performed any subsequent update or revalidation of its process hazard analysis every five years, which should have occurred in years 2008, 2013, and 2018.

38. Respondent's failure to conduct an initial process hazard analysis and subsequently to perform any update or revalidation of the process hazard analysis in accordance with 40 C.F.R. § 68.67(a), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Violation 4: Operating Procedures

39. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.69(c) require that the operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate.

40. At the time of the Inspection, Respondent had not certified annually, beginning with its startup of operations in 2003, that its operating procedures were current and accurate.

41. Respondent's failure to annually certify its operating procedures in accordance with 40 C.F.R. § 68.69(c), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Violation 5: Training

42. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.71(b) requires that refresher training shall be provided at least every three years, and more often, if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. The owner or operator, in consultation with the employees involved in operating the process, shall determine the appropriate frequency of refresher training.

43. At the time of the Inspection, Respondent had not provided documentation of refresher training for two of its four covered process operators

44. Respondent's failure to provide documentation, and thus failure to certify the training for two of its employees on emergency operations prior to being involved in operating a process pursuant to 40 C.F.R. § 68.71(a), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Violation 6: Mechanical Integrity – Inspection and Testing

45. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. §§ 68.73(d)(4) the owner or operator shall document each inspection and test that has been performed on process equipment. The documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.

46. At the time of the Inspection, Respondent had not provided documentation of inspections or tests on seven (7) pressure vessels to include: date of the inspection or test, the name of the person who performed the inspection or test, the identification of the pressure vessel on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test in accordance with any RAGAGEP.

47. Respondent's failure to provide documentation of inspections and tests and failure to certify that the inspections and tests occurred pursuant to 40 C.F.R. § 68.73(d), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Violation 7: Pre-startup Review

48. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. The regulation at 40 C.F.R. § 68.77(a) requires that the owner or operator 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.

49. At the time of the Inspection, Respondent had not conducted a pre-startup safety review for any of its management of changes that affected a covered process.

50. Respondent's failure to conduct a pre-startup safety review for management of changes that affected its covered processes in accordance with 40 C.F.R. § 68.77(a), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7)

Violation 8: Compliance Audit

51. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.79(a), the owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least every three years to verify that procedures and practices developed under this subpart are adequate and are being followed.

52. At the time of the Inspection, Respondent had not conducted risk management program compliance audits in accordance with 40 C.F.R. § 68.79(a).

53. Respondent's failure to conduct risk management program compliance audits in accordance with 40 C.F.R. § 68.79(a), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Violation 9: Employee Participation

54. The regulation at 40 C.F.R. § 68.12(d)(3) requires the owner or operator of a stationary source with a process subject to Program 3 to implement the prevention requirements of 40 C.F.R. §§ 68.65 through 68.87. Pursuant to 40 C.F.R. § 68.83(b), the owner or operator shall develop a written plan of action regarding the implementation of the employee participation required by this section.

55. At the time of the Inspection, Respondent had not provided a written employee participation plan on how consultation with its employees is conducted regarding the conduct and development of process hazard analyses and access to such documentation.

56. Respondent's failure to provide a written employee participation plan that meets the requirements under 40 C.F.R. § 68.83(b), as required by 40 C.F.R. § 68.12(d)(3), is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Violation 10: Emergency Response Coordination Activities

57. The regulation at 40 C.F.R. § 68.93(c) requires that the owner or operator shall document coordination with local authorities, including: the names of individuals involved and their contact information (phone number, email address, and organizational affiliations); dates of coordination activities; and nature of coordination activities.

58. At the time of the Inspection, Respondent had not provided documentation that it had coordinated with local authorities regarding its emergency response coordination activities.

59. Respondent's failure to provide documentation that it coordinated with local authorities regarding its emergency response coordination activities pursuant to 40 C.F.R. § 68.93(c) is a violation of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

Order for Compliance

60. Based on the EPA Findings of Fact and Conclusions of Law and the EPA Findings of Violation set forth above, and pursuant to the authority of Section 113(a)(3)–(4), of the CAA, 42 U.S.C. § 7413(a)(3)–(4), as amended, Respondent is hereby ORDERED and agrees to comply with the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68.

61. The EPA and Respondent agree that Respondent shall, as expeditiously as possible, but in no event later than three hundred and sixty-five (365) from the effective date of this Order, complete the following actions (Compliance Actions):

a. Identify and engage a third-party auditor or audit team to evaluate Respondent's RMP-covered process for compliance with the requirements of 40 C.F.R. Part 68 at its facility located in La Porte, Texas.

b. All auditors shall be impartial, knowledgeable of the requirements of 40 C.F.R. Part 68 and the implementing statute, experienced with the stationary source type and processes being audited and applicable recognized and generally accepted good engineering practices (RAGAGEP), and trained or certified in proper auditing techniques.

c. Respondent shall ensure that the auditor prepares and submits an audit report that identifies the lead auditor or manager, participating individuals, and any other key persons participating in the audit, including names, titles, and summaries of qualifications.

d. Respondent shall ensure that the report documents the auditor's evaluation of each RMP-covered process and overall findings of the audit, including any identified compliance or performance deficiencies, violations, potential violations, and other areas of concern regarding compliance with 40 C.F.R. Part 68. Any photographs and video recordings produced as part of the documentation shall be incorporated and included in the audit report.

e. The report shall include the following certification, signed, and dated by the auditor or supervising manager for the audit:

> I certify that this compliance audit report was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information upon which the audit is based. I further certify that the audit was conducted, and this report was prepared pursuant to all applicable auditing, competency, independence, impartiality, and conflict of interest standards and protocols. Based on my personal knowledge and experience, the inquiry of personnel involved in the audit, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

f. As soon as practicable, but no later than ninety (90) days after receiving the final audit report, Respondent shall determine an appropriate response to each of the findings in the audit report, and develop and provide to EPA a findings response report that includes:

   i. A copy of the final audit report;

   ii. An appropriate response to each of the audit report findings;

iii. A schedule for promptly addressing deficiencies; and

iv. A certification, signed and dated by Respondent's senior corporate officer or other official in an equivalent position, stating:

> I certify under penalty of law that the attached compliance audit report was received, reviewed, and responded to under my direction or supervision by qualified personnel. I further certify that appropriate responses to the findings have been identified and deficiencies were corrected, or are being corrected, as documented herein. Based on my personal knowledge and experience, or inquiry of personnel involved in evaluating the report findings and determining appropriate responses to the findings, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

g. Respondent shall implement the schedule to address deficiencies identified in the audit findings response report.

h. Respondent shall document the actions taken to address each deficiency, along with the date completed. If deficiencies are corrected prior to the delivery to the EPA of the audit findings response report, then they may be included in that document. If deficiencies are corrected after delivery to the EPA of the audit findings response report, those actions should be identified under a separate letter report to the EPA, to be submitted promptly after completion of the corrections.

i. Respondent shall retain all copies of draft and final audit reports, including associated documents, for a period of five years from the date of the final audit report, and provide any audit reports or documents to EPA upon request.

Submissions

62. Respondent shall provide documentation of completion of the compliance actions described above to the EPA pursuant to the timelines stated in Paragraph 60.

63. All submissions to EPA required by this Order shall contain the following certification signed by an authorized representative of Respondent:

> 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, 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.

64. All submissions to EPA required by this Order shall be sent by electronic mail to:

Mr. Tony Robledo
Enforcement and Compliance Assurance Division
Air Enforcement Branch
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101
Robledo.Tony@epa.gov

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

Stipulated Penalties

66. Respondent shall be liable for stipulated penalties for failure to comply with the requirements of Paragraph 60 of this Order. The following stipulated penalties shall accrue per violation per day for failure to comply with the deadlines established for performance of the Compliance Actions or Submissions requirements above:

Penalty per Violation per Day	Period of Noncompliance
$1000	1st through 30th day

$5000	31st day and beyond

67. All penalties shall begin to accrue on the day after the complete performance is due and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity required by this Order.

68. The payment of penalties shall not alter in any way Respondent's obligation to comply with the provisions of this Order.

69. All penalties accruing under this section shall be due and payable to the United States within thirty (30) days of Respondent's receipt from the EPA of a demand for payment of stipulated penalties. Such payments shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

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

or by alternate payment method described at http://www.epa.gov/financial/makepayment.

70. A copy of the check or other information confirming payment shall simultaneously be sent by electronic mail to:

Mr. Tony Robledo
Enforcement and Compliance Assurance Division
Air Enforcement Branch
U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500 (ECDAC)
Dallas, Texas 75270-2101
Robledo.Tony@epa.gov

71. Respondent understands that failure to timely pay any portion of a stipulated penalty may result in the commencement of a civil action in Federal District Court to recover

the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on the stipulated penalty from the date of delinquency until such stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge of six percent (6%) per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

Other Terms and Conditions

72. By entering into this Order, Respondent: (a) consents to and agrees to not contest the EPA's authority or jurisdiction to issue or enforce this Order; and (b) agrees to undertake all actions required by this Order.

73. Respondent neither admits nor denies the EPA Findings of Fact and Conclusions of Law and the EPA Findings of Violation.

74. Respondent and the EPA agree to bear their respective costs and attorney's fees. Respondent waives its right to seek reimbursement of their costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 104-121), and any regulations promulgated thereunder.

General Provisions

75. Respondent waives any and all remedies, claims for relief and otherwise available rights to jurisdictional or administrative review that 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 under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1), or under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

76. Any violation of this Order may result in an additional enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413. The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action. Section 113 of the CAA, 42 U.S.C. § 7413, authorizes the Administrator to:

a. issue an administrative penalty order under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), assessing a civil penalty not to exceed $48,192 (or amount as adjusted by the Civil Monetary Penalty Adjustment Rule) per day of violation, pursuant to Section 113(d)(1)(B) of the CAA, 42 U.S.C. § 7413(d)(1)(B);

b. bring a civil judicial enforcement action for permanent or temporary injunction, or to assess and recover a civil penalty not to exceed $101,439 (or amount as adjusted by the Civil Monetary Penalty Adjustment Rule) per day of violation, or both, pursuant to Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2); or

c. request the Attorney General to commence a criminal action pursuant to Section 113(c) of the CAA, 42 U.S.C. § 7413(c).

77. This Order does not resolve any civil or criminal claims for violations alleged in this Order. In accordance with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), issuance of this Order does not preclude EPA from assessing penalties, obtaining injunctive relief, or taking any other action authorized under the CAA, or other applicable federal laws or regulation. This Order does not affect the obligation of Respondent to comply with all federal, state, and local statutes, regulations, and permits.

78. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to public health, welfare, or the environment.

79. Nothing in this Order shall limit EPA's right to obtain access to, and/or inspect the Facility, and/or to request additional information from Respondent pursuant to the authority of Section 114 of the CAA, 42 U.S.C. § 7414.

80. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of the Order for Compliance is restitution, remediation, or required to come into compliance with the law.

81. By signing this Order, the undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Order, and to execute and legally bind Respondent to this Order.

82. The provisions of this Order shall apply and be binding upon Respondent and its officers, directors, employees, successors, and assigns. Respondent shall ensure that any agents, officers, directors, employees, contractors, consultants, firms or other persons or entities acting on behalf of Respondent with respect to matters included herein comply with the terms of this Order. From the effective date until termination of this Order, Respondent must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of such transfer, Respondent shall not be released form the obligations or liabilities of

this Order unless the EPA has provided written approval of the release of said obligations or liabilities.

83. Pursuant to Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), this Consent Order shall be effective when fully executed, shall not exceed the earlier of one year or the date of a determination by the EPA that Respondent has achieved compliance with all terms of this Order, and shall be nonrenewable.

84. The EPA and Respondent may subsequently amend this Order, in writing, in accordance with the authority of the CAA. In the event of any amendment to this Order, all requirements for performance of this Order not affected by the amendment shall remain as specified by the original Order.

85. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

86. The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agree to electronic service of this Order by electronic mail to the following:

To EPA:	Elizabeth A George at George.Elizabeth.A@epa.gov
To Respondent:	Chris Brandt at *cbrandt@gasinnovations.com*
With a copy to:	Patrick Larkin at *plarkin@clarkhill.com*; and
	Andrew Kaplan at *AKaplan@Kaplan-Lawfirm.com*

RESPONDENT:
GAS INNOVATIONS

Date: 10-13-2022

Signature

CHRISTOPHER BRANDT
Name

VICE PRESIDENT OF OPERATIONS
Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Cheryl T. Seager
Digitally signed by CHERYL SEAGER
Date: 2022.10.14 10:23:19 -05'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I certify that on the date noted below I sent a true and correct copy of the original Administrative Order on Consent to:

Gas Innovations
18005 E. Hwy 225, La Porte, TX 77571
cbrandt@gasinnovations.com

With a copy to: Patrick Larkin at *plarkin@clarkhill.com*; and

Andrew Kaplan at *AKaplan@Kaplan-Lawfirm.com*

ELIZABETH GEORGE

Digitally signed by ELIZABETH GEORGE
Date: 2022.10.14 10:27:50 -05'00'

Signed
Office of Regional Counsel
U.S. EPA, Region 6