

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

IN THE MATTER OF)

Service and Supply Cooperative)
22 Coop Avenue)
New Florence, Missouri 63363)

Respondent.)

Docket No. CAA-07-2009-0005

ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT

This Administrative Compliance Order on Consent (Order) is entered into voluntarily by the United States Environmental Protection Agency, Region VII (EPA) and by the Respondent, Service and Supply Cooperative, pursuant to Section 113(a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. 7413(a)(3)(B), as amended. This Order requires Respondent, Service and Supply Cooperative, to comply with the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68, Subpart G.

Specifically, EPA Orders Service and Supply Cooperative to install breakaway connectors on the nurse tank loading station and ensure ammonia storage tanks are labeled with the words "Anhydrous Ammonia" or "Caution Ammonia" in compliance with recognized and generally accepted engineering practices, as required by 40 C.F.R. § 68.48(b). All activities specified below shall be initiated and completed as soon as possible even though maximum time periods for their completion may be specified herein. The terms of this Order shall not be modified except by a subsequent written agreement between the parties.

I. Statutory and Regulatory Background

1. 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), which requires the Administrator of EPA to, among other things, promulgate regulations in order to prevent accidental releases of certain regulated substances. Section 112(r)(3), 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). Specifically, Section 112(r)(7) requires the Administrator to promulgate regulations that address release prevention, detection and correction requirements for these listed regulated substances, 42 U.S.C. § 7412(r)(7).

2. On June 20, 1996, EPA promulgated a final rule known as the Risk Management Program, 40 C.F.R. Part 68, which implements Section 112(r)(7), 42 U.S.C. § 7412(r)(7), of the CAA. These 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.

3. The regulations at 40 C.F.R. Part 68, set forth the requirements of a risk management program that must be established at each stationary source. The risk management program is described in a Risk Management Plan (RMP) that must be submitted to EPA.

4. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and 40 C.F.R. § 68.150, the RMP must be submitted for all covered processes, by an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process 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.

5. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), grants the Administrator the authority to make a finding of violation of a requirement or prohibition of Title I, and upon such a finding, to issue an order requiring a person to comply with such requirement or prohibition.

II. Definitions

6. The regulations at 40 C.F.R. § 68.3 define “stationary source” 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.

7. 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, as amended, listed in 40 C.F.R. § 68.130, Tables 1, 2, 3, and 4, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

8. 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, as amended, in 40 C.F.R. § 68.130, Tables 1, 2, 3, and 4.

9. The regulations at 40 C.F.R. § 68.3 define “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.

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

III. Factual Background

11. Respondent is the owner and/or operator of a facility located at 22 Coop Avenue, New Florence, Missouri (facility). The facility owned by Respondent is a dealer for anhydrous ammonia to area farmers for application as a nutrient.

12. At all times relevant to this Administrative Compliance Order on Consent, Respondent processed, handled or stored anhydrous ammonia at its facility.

13. EPA inspected Service and Supply Cooperative on July 23, 2008, to determine compliance with Section 112(r) of the CAA and 40 C.F.R. Part 68. Information collected as a result of this inspection revealed that Service and Supply Cooperative had greater than 10,000 pounds of anhydrous ammonia at its facility.

IV. Conclusions of Law

14. 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).

15. Respondent's facility located at 22 Coop Avenue, New Florence, Missouri, is a "stationary source" pursuant to 40 C.F.R. § 68.3.

16. Anhydrous ammonia is a regulated substance pursuant to 40 C.F.R. § 68.3. The threshold quantity for anhydrous ammonia, as listed in 40 C.F.R. § 68.130, Table 1, is 10,000 pounds.

17. On or about July 23, 2008, EPA conducted an inspection of Respondent's facility to determine compliance with Section 112(r) of the CAA and 40 C.F.R. Part 68.

18. Service and Supply Cooperative is subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68, Subpart G, because it is an owner and operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

V. Finding of Violation

19. Service and Supply Cooperative failed to ensure that the process is designed in compliance with recognized and generally accepted good engineering practices, as required by 40 C.F.R. § 68.48(b). Service and Supply Cooperative's failure to comply with 40 C.F.R. § 68.48(b), is a violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

VI. Compliance Order

20. Based upon the foregoing Finding of Violation, it is hereby ordered and agreed that Respondent, Service and Supply Cooperative, shall comply with the requirements of Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), and the regulations promulgated thereunder and codified at 40 C.F.R. Part 68, Subpart G. Specifically, EPA and Respondent Service and Supply Cooperative agree that Respondent shall, as expeditiously as possible, but in no event longer than 30 days from the effective date of this Order, install breakaway connectors on the nurse tank loading station and ensure ammonia storage tanks are labeled with the words "Anhydrous Ammonia" or "Caution Ammonia," to be in compliance with recognized and generally accepted engineering practices, as required by 40 C.F.R. § 68.48(b).

21. Respondent shall, upon completion of the installation of breakaway connectors and the proper labeling of anhydrous ammonia storage tanks, submit a Completion Report, within 45 days of the effective date of this Order which includes the following:

- a) photographs documenting the installation of breakaway connectors and the proper labeling of anhydrous ammonia storage tanks;
- b) an itemization of the costs of installing breakaway connectors and proper labeling of anhydrous ammonia storage tanks; and
- c) a verification, stating that Respondent has complied with each of the requirements of this Order.

22. All documents required to be submitted to EPA by this Order shall contain the following certification signed by an officer of the 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. (Signature)

23. The submissions required by paragraph 21 shall be made to:

Jodi Harper
Chemical Risk Information Branch
United States Environmental Protection Agency, Region VII
901 North Fifth Street
Kansas City, Kansas 66101.

24. 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 Respondent pursuant to 40 C.F.R. Part 2, Subpart B, and determined by EPA to merit treatment as confidential business information in accordance with applicable law.

VI. Stipulated Penalties

25. Respondent shall be liable for stipulated penalties in the amounts set forth in subparagraphs (a) and (b) for failure to comply with the requirements of this Order.

- a) The following stipulated penalties shall accrue per violation per day for failure to come into compliance and to comply with the requirements of paragraph 20 of this Order:

<u>Penalty per Violation per Day</u>	<u>Period of Noncompliance</u>
\$100	1st through 30th day
\$250	31st day and beyond

- b) The following stipulated penalties shall accrue per day for failure to submit the Completion Report as required by paragraph 21 of this Order:

<u>Penalty per Violation per Day</u>	<u>Period of Noncompliance</u>
\$100	1st through 30th day
\$250	31st day and beyond

26. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity.

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

28. All penalties accruing under this section shall be due and payable to the United States within thirty (30) days of Respondent's receipt from EPA of a demand for payment of penalties. All payments to the United States under this section shall be paid by certified or cashier's check made payable to "Treasurer, United States of America" and remitted to:

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

29. Failure to pay any portion of the stipulated penalties on the date upon which they are due will result in the accrual of interest on the unpaid portion of the stipulated penalties at the rate of three percent (3%) per annum.

VII. Potential Liability

30. Section 113(a)(3)(B) of the CAA grants EPA the authority to issue an Order to Comply to any person found in violation of Section 112(r) of the CAA and the regulations promulgated pursuant thereto.

31. Failure to comply with any of the provisions of this Order may result in an enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413. Under Section 113(a) of the CAA, the Administrator is authorized to address such a violation as follows:

- a) Issue an administrative penalty order assessing a civil penalty not to exceed \$32,500 per day of violation;
- b) Bring a civil action for permanent or temporary injunction, or to recover a penalty not to exceed \$32,500 per day of violation, or both; or

- c) Request the Attorney General to commence a criminal action pursuant to Section 113(c) of the CAA.

32. Issuance of this Order does not preclude the State of Missouri or EPA from assessing penalties or taking any other action authorized under the CAA. This Order does not affect the obligation of Service and Supply Cooperative to comply with all federal, state, and local statutes, regulations and permits.

33. This Order shall become effective on the date that it is signed by the Director of the Air & Waste Management Division, EPA.

34. This Order shall terminate one year from the effective date of this Order.

35. This Order is binding on the Parties signing below.

COMPLAINANT:
U. S. ENVIRONMENTAL PROTECTION AGENCY

By Becky Weber
Becky Weber
Director, Air & Waste Management Division

Date: 11/20/09

RESPONDENT:
SERVICE AND SUPPLY COOPERATIVE

By J. Donald Bur
Title General Manager

Date 12-22-08

Service & Supply Cooperative

*22 Co-op Road
New Florence, MO
(573) 835-2485*

Completion Report

As instructed by the compliance report we have made the repairs to our anhydrous ammonia facility.

On 10/16/08 we installed new labels on the storage tanks.

On 12/11/08 we installed the breakaway connectors on the loading rack.

**New Florence Branch manager
Randy Overkamp**

A handwritten signature in black ink, appearing to read "Randy Overkamp", written in a cursive style.

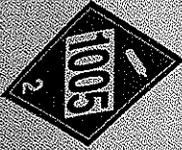


CAUTION
AMMONIA
INHALATION HAZARD



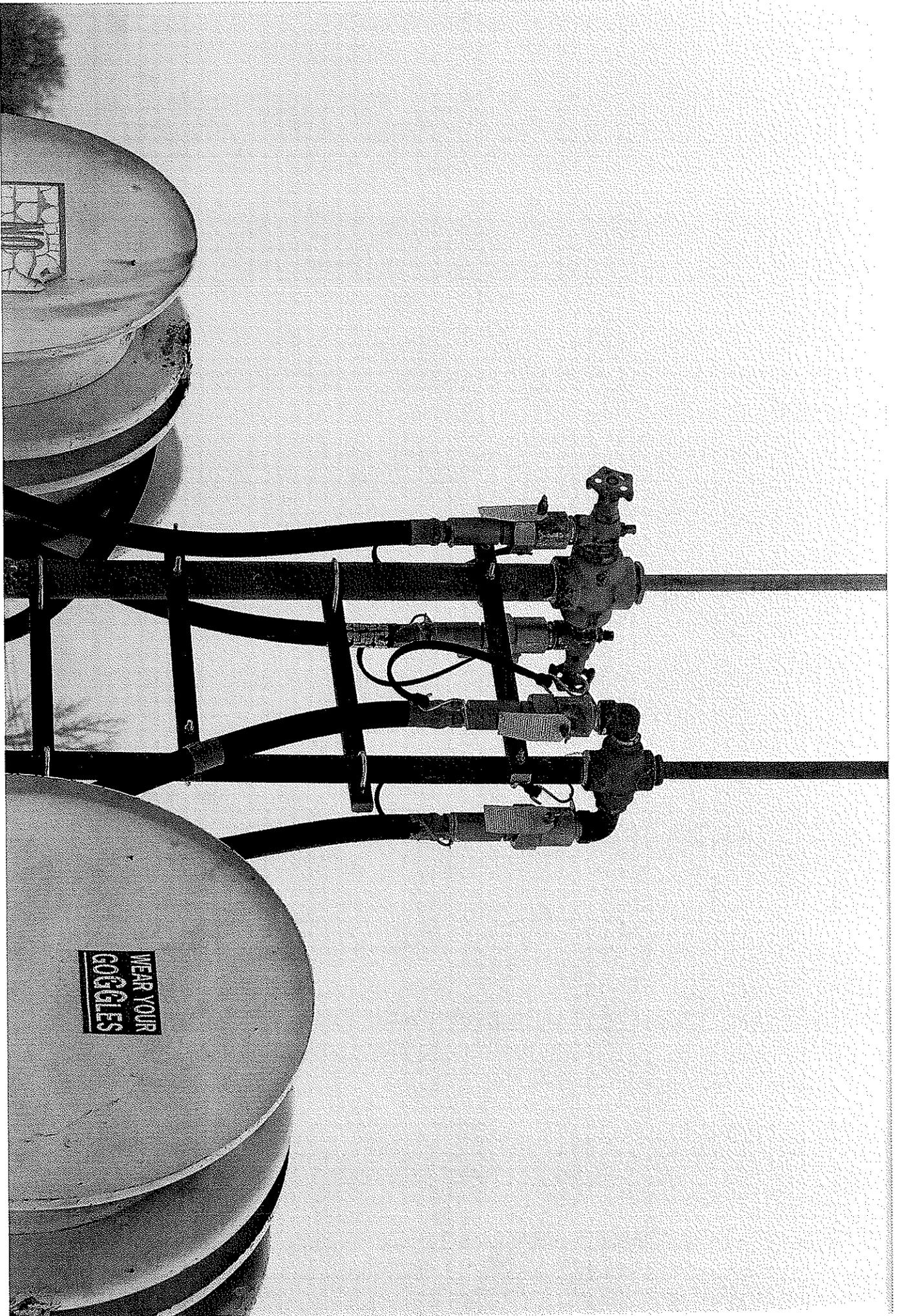
**CAUTION
AMMONIA**

INHALATION HAZARD

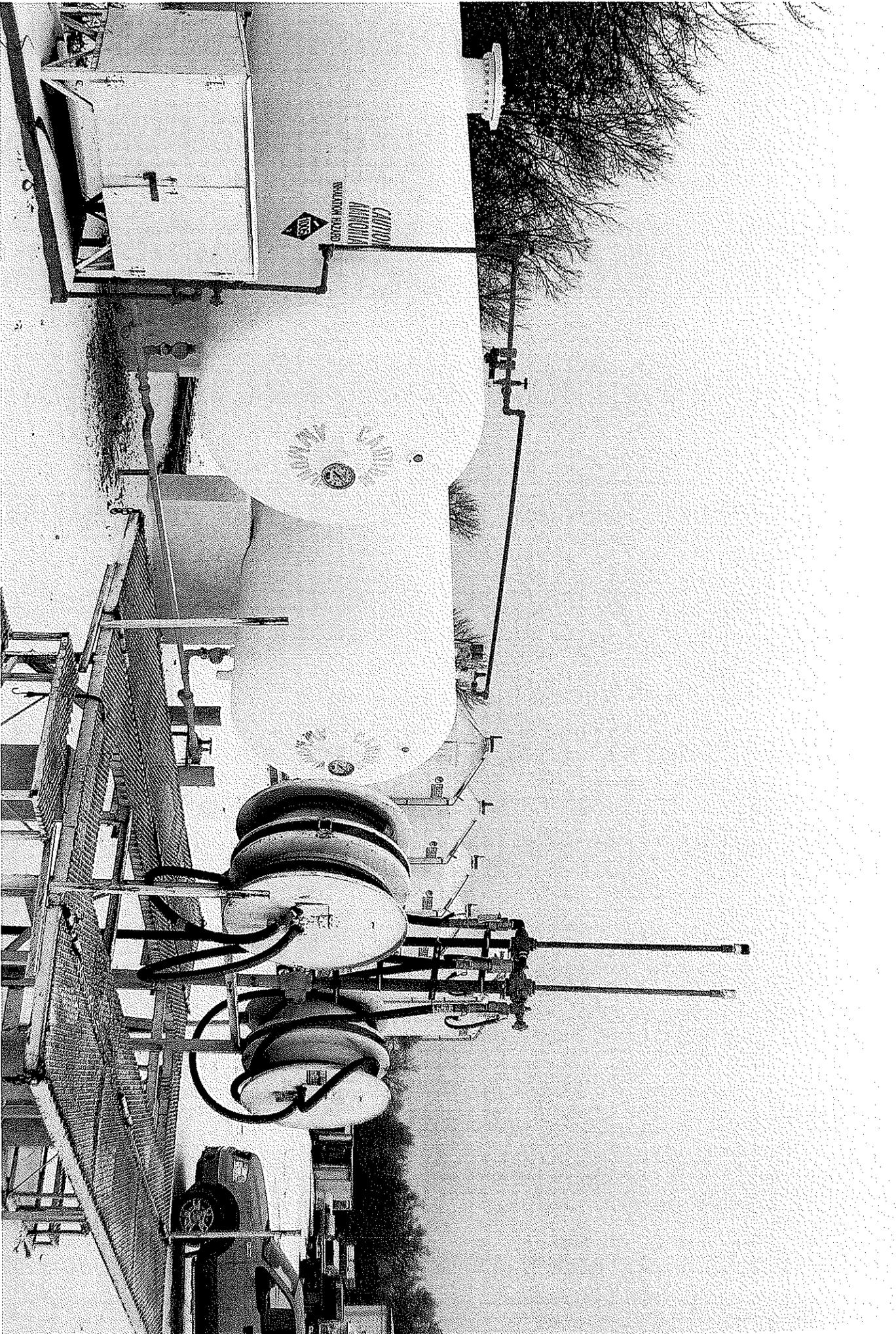


**CAUTION
AMMONIA**









FERTILIZER DEALER SUPPLY
11400 OLD HWY 40
BODENVILLE, MO 65233
USA

INVOICE

S NISSA
O SERVICE & SUPPLY CO-OP, INC.
L 22 CO-OP AVE
D PO BOX 175
T NEW FLORENCE, MO 63363
O USA

Page	1
Invoice No.	597110
Invoice Date	10/09/08

Customer Purchase Order No.	100308	Ship Via	UNITED PARCEL SERVICE	Terms	1% 15 Days / Net 30	Date Shipped	10/08/08	SALES	60	SI-MO	Pick Ticket No.	605117-000
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Special Instructions====>

Quantity Ordered	Quantity Shipped	Quantity Back Ordered	U/P	Item Description	Price	Amount
4.00	4.00	.00	EA	021-0003109 RECT 26X14 CAUTION AMM DECAL	2.850	11.40
4.00	4.00	.00	EA	021-0003202 CURVED 26 DIAM CAUTION AM DEC	7.100	28.40
4.00	4.00	.00	EA	021-0001736 3" INHALATION HAZARD DECAL	1.300	5.20
4.00	4.00	.00	EA	021-0004337 1005 GREEN DIAMOND DECAL	.750	3.00
10.00	10.00	.00	EA	021-0007000 7 PIECE VALVE ID DECAL	.420	4.20
1.00	1.00	.00	EA	605-0407211 407-21 REPAIR KIT	11.420	11.42
Sub-Total: 63.62 Shipping & Handling: 9.47 Tax: .00 Sub-Total: 73.09 Deposit: .00 Balance Due: 73.09						

Remit To: Fertilizer Dealer Supply P.O. Box 500 Philo, IL 61864
 If paid before 10/24/08 you will get a .64 discount.

Handwritten notes:
 1005
 63.20
 11.42
 10 21 08
 58338
 WTS Storage Tanks
 Decals for

01/14/09 11:00 AM
 Global date
 Best for shipping
 Monday

Fertilizer Dealer Supply
 106 W. Monroe Street
 Philo, IL 61864
 USA
 Phone: 8005234514
 Fax: 2176642104

MEM
 S SERVICE & SUPPLY CO-OP, INC.
 H 22 CO-OP AVE
 I PO BOX 176
 P NEW FLORENCE, MO 63163
 USA

INVOICE

PAGE: 1
 INVOICE NO. 600072
 INVOICE DATE 10/31/08

ORDER QTY	SHIP QTY	E/O QTY	ITEM	DESCRIPTION	PRICE	U/A	AMOUNT
4.00	4.00	.00	011-0000551	A-53-RSS 1" RISER SERRA	328.5000	EA	1314.00
SUB-TOTAL					1314.00		
SHIP/HANDLING					41.40		
TAX					.00		
SUB-TOTAL					1355.40		
DEPOSIT					.00		
BALANCE DUE							1355.40

If paid on or before 11/15/08, you will get a 13 14 Dollars discount.

CUSTOMER P/O NO. 108869
 SPECIAL INSTRUCTIONS >
 SHIP VIA UNITED PARCEL SERVICE
 TERMS 18 15 Days / Net 30
 SHIPPED 10/31/08
 SLMT1 SLMT2 PICK TICKET
 60 608701-000

IN THE MATTER OF Service and Supply Cooperative, Respondent
Docket No. CAA-07-2009-0005

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Administrative Compliance Order on Consent was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kristen Nazar
Office of Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

J. Donald Broz, General Manager
Service and Supply Cooperative
22 Coop Avenue
New Florence, Missouri 63363

Dated: 3/10/09


Kathy Robinson
Hearing Clerk, Region 7