

FOOD GROUP

MILMAR FOOD GROUP II, LLC

One 6 1/4 Station Rd, Goshen, NY 10924 • PH: 845-294-5400 Fax: 845-294-6687

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II

2010 NOV -2 P 2: 18

REGIONAL HEARING
CLERK

October 28, 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th floor
New York, New York 10007-1866

Carol Y. Berns
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway, 17th Floor
New York, New York 10007-1866

Re: In the Matter of MilMar Food Group II, LLC., Docket No. EPCRA-02-2010-4002

To Whom It May Concern:

Respondent is formally filing an Answer to the complaint, pursuant to 40 C.F.R. § 22.15(a) – (c) to request a hearing. The Answer is also to be filed because the Respondent contends that the proposed penalty is inappropriate.

The respondent clearly and directly admits guilt to all 3 Counts of the factual allegations contained in the complaint including:

COUNT I

Respondent did not submit a completed emergency and hazardous chemical inventory form (Tier I or Tier II form) for anhydrous ammonia for the Facility for the year 2007 by March 1, 2008 to the LEPC, the SERC, and/or the local fire department with jurisdiction over Respondent's Facility.

Respondent violated the reporting requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

COUNT II

Respondent did not submit a completed emergency and hazardous chemical inventory form (Tier I or Tier II form) for anhydrous ammonia for the Facility for the year 2008 by March 1, 2009 to the LEPC, the SERC, and/or the local fire department with jurisdiction over Respondent's Facility.

Respondent violated the reporting requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.



COUNT III

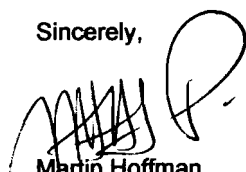
Respondent did not submit a completed emergency and hazardous chemical inventory form (Tier I or Tier II form) for anhydrous ammonia for the Facility for the year 2009 by March 1, 2010 to the LEPC, the SERC, and/or the local fire department with jurisdiction over Respondent's Facility.

Respondent violated the reporting requirements of Section 312 of EPCRA, 42 U.S.C. § 11022, and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

The circumstances or arguments that are alleged to constitute the grounds of defense and the basis for obtaining proposed financial relief from the proposed penalty, include: 1) the fact that the respondent has no prior history of violations, 2) Respondent failure was not willful, 3) Respondent has immediately corrected all of the violations herein alleged, 4) Respondent's attitude is humble, co-operative with the willingness to settle and pay quickly and 5) that the negative effect the proposed penalty may have on Respondent's ability to continue in business noting the Respondent's representations and warranties made to its current lender may violate bank covenants thus causing a default.

Respondent is also requesting an informal settlement conference.

Sincerely,



Martin Hoffman
President, CEO

MH/dam

Enclosures

cc: Bruce Weigand, Maintenance
John Augustinski, Maintenance Manager
Roy Makinen, VP



Tier Two EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY <i>Specific Information by Chemical</i>	Facility Identification		Owner/Operator Name	
	Name <u>Milmar Food Group II, LLC</u>		Name <u>Milmar Food Group II</u>	Phone <u>(845)294-5400</u>
	Street <u>One 6 1/2 Station Rd</u>		Mail Address <u>One 6 1/2 Station Rd, Goshen, NY 10924</u>	
City <u>Goshen</u> County <u>Orange</u> State <u>NY</u> Zip <u>10924</u>		Emergency Contact		
NAICS Code _____ Dun & Brad Number _____		Name <u>Roy Makinen</u> Title <u>Exec. VP</u>		
FOR OFFICIAL USE ONLY		Phone <u>(845)294-5400</u> 24 Hr. Phone <u>(845)548-8222</u>		
		Name <u>John Augustinski</u> Title <u>Maint Manager</u>		
		Phone <u>(845)294-5400</u> 24 Hr. Phone <u>(570)954-0999</u>		

Important: Read all instructions before completing form Reporting Period From January 1 to December 31, 20 10 Check if information below is identical to the information submitted last year.

Chemical Description	Physical and Health Hazards <i>(check all that apply)</i>	Inventory	Container Type Pressure Temperature	Storage Codes and Locations <i>(Non-Confidential)</i> <i>Storage Locations</i>												
CAS <u>7664-417</u> Trade Secret _____ Chem. Name <u>Anhydrous Ammonia</u> Check all that apply <input type="checkbox"/> Pure <input type="checkbox"/> Mix <input type="checkbox"/> Solid <input checked="" type="checkbox"/> Liquid <input checked="" type="checkbox"/> Gas <input type="checkbox"/> EHS EHS Name _____	<input checked="" type="checkbox"/> Fire <input checked="" type="checkbox"/> Sudden Release of Pressure <input type="checkbox"/> Reactivity <input checked="" type="checkbox"/> Immediate (acute) <input checked="" type="checkbox"/> Delayed (chronic)	Max. Daily Amount (code) <u>0</u> <u>3</u> Avg. Daily Amount (code) <u>0</u> <u>3</u> No. of Days On-site (days) <u>3</u> <u>6</u> <u>5</u>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>A</td><td>2</td><td>100</td></tr> <tr><td>A</td><td>3</td><td>-35</td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </table>	A	2	100	A	3	-35							Engine room (approx. 2275#) _____ _____ _____
A	2	100														
A	3	-35														
CAS _____ Trade Secret _____ Chem. Name _____ Check all that apply <input type="checkbox"/> Pure <input type="checkbox"/> Mix <input type="checkbox"/> Solid <input type="checkbox"/> Liquid <input type="checkbox"/> Gas <input type="checkbox"/> EHS EHS Name _____	<input type="checkbox"/> Fire <input type="checkbox"/> Sudden Release of Pressure <input type="checkbox"/> Reactivity <input type="checkbox"/> Immediate (acute) <input type="checkbox"/> Delayed (chronic)	Max. Daily Amount (code) _____ Avg. Daily Amount (code) _____ No. of Days On-site (days) _____	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </table>													_____ _____ _____
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<p>Certification <i>(Read and sign after completing all sections)</i></p> <p>I certify under penalty of law that I have personally examined and am familiar with the information submitted in pages one through <u>1</u>, and that based on my inquiry of those individuals responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.</p> <p style="text-align: right;">Date signed <u>5/26/2010</u></p> <p>Name and official title of owner/operator OR owner/operator's authorized representative _____ Signature _____</p>	<p>Optional Attachments</p> <p><input type="checkbox"/> I have attached a site plan</p> <p><input type="checkbox"/> I have attached a list of site coordinate abbreviations</p> <p><input type="checkbox"/> I have attached a description of dikes and other safeguards measures</p>
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Airgas

Material Safety Data Sheet # 4001

Last Revision 05/20/09

Page 1 of 2

SECTION 1: CHEMICAL PRODUCT & COMPANY IDENTIFICATION

CHEMICAL NAME: Anhydrous Ammonia
DISTRIBUTOR:
Airgas Specialty Products
2530 Sever Road, 300
Lawrenceville, GA 30043 USA

TRADE NAMES / SYNONYMS: Ammonia
EMERGENCY TELEPHONE NUMBERS:
Transportation (CHEMTREC): 1-800-424-9300
Transportation, Canada (CANUTEC): 1-613-996-6666
Environmental/Health/Safety (24-hr): 1-800-528-4963
Customer Service (Toll Free): 1-800-295-2225

SECTION 2: COMPOSITION / INFORMATION ON INGREDIENTS

CHEMICAL	FORMULA	% BY WEIGHT		CAS	OSHA PEL	NIOSH REL / ACUTE TLV		IDLH
		C-grade	P-grade					
Ammonia	NH ₃	99.5	99.995	7664-41-7	25 ppm (California only) 50 ppm (TWA)	25 ppm (TWA)	35 ppm (STEL)	300ppm
Water	H ₂ O	0.4	33 ppm	7732-18-5	None	None	None	
Oil	—	0.1	2 ppm		None	None	None	

SECTION 3: HAZARDS IDENTIFICATION

EMERGENCY OVERVIEW: 1. Colorless gas or compressed liquid with a pungent, suffocating odor. 2. Liquid ammonia reacts violently with water. Vapor cloud is produced. 3. Avoid contact with liquid and vapor. 4. Stay upwind and use water spray to absorb vapor. 5. Not flammable under conditions likely to be encountered outdoors. 6. Stop discharge if possible.

POTENTIAL HEALTH EFFECT

ROUTES OF ENTRY: Inhalation, Skin Contact, Eye Contact, Ingestion. **TARGET ORGANS:** Eyes, skin and respiratory system.
EYE CONTACT: Exposure to liquid or high concentrations of vapor can cause painful, instant and possibly irreversible damage to tissue such as conjunctiva, cornea and lens. **SKIN CONTACT:** Prolonged contact with high concentrations can cause painful tissue damage, frostbite and serious chemical burns. **INHALATION:** Depending on exposure concentration and duration, effects can vary from none or only mild irritation, to obstruction of breathing from laryngeal and bronchial spasm, to edema and severe damage to mucous membranes of the respiratory tract with possible fatal results. Latent edema and residual reduction in pulmonary function may occur. **INGESTION:** Tissue damage, chemical burns, nausea and vomiting can occur. Ammonia is a gas under normal atmospheric conditions and ingestion is unlikely. **CARCINOGENICITY:** NTP? No IARC? No OSHA? No

SECTION 4: FIRST AID MEASURES

EYE CONTACT: Flush with large amounts of water for at least 15 minutes then immediately seek medical aid.

SKIN CONTACT: Immediately flush with large quantities of water for at least 15 minutes while removing clothing. If clothing has frozen to skin, thaw with water before removal. Seek immediate medical aid.

INHALATION: Remove from exposure. If breathing has stopped or is difficult, administer artificial respiration or oxygen as needed. Seek immediate medical aid.

INGESTION: Do not induce vomiting. Have victim drink large quantities of water if conscious. Immediately seek medical aid. Never give anything by mouth to an unconscious person.

SECTION 5: FIRE FIGHTING MEASURES

FLASH POINT(method used): Not Applicable **FLAMMABLE LIMITS:** 16-25% in air (for labeling purposes, not DOT flammable gas). **EXTINGUISHING MEDIA:** Stop flow of gas or liquid. Ammonia will burn in the range of 16-25% in air with a constant source of ignition. **SPECIAL FIRE FIGHTING PROCEDURES:** Move containers from fire zone if possible; if not, use water to cool fire-exposed containers. Use water spray to control vapors. Do not put water directly on liquid ammonia. Personnel must be equipped with appropriate protective clothing and respiratory protection.

NFPA HAZARD CLASSIFICATION: Health: 3 Flammability: 1 Reactivity: 0 (least-0 — 4-highest)

SECTION 6: ACCIDENTAL RELEASE MEASURES

In US, federal regulations require that a release of 100 lb. or more of ammonia must be reported immediately to the National Response Center at (800) 424-8802, the SERC and the LEPC. In California, ALL releases must be reported to CUPA, state and local agencies. Additional state and local regulations may apply. **SUGGESTED LOCAL ACTION:** Stop leak if feasible. Avoid breathing ammonia. Evacuate personnel not equipped with protective clothing and equipment. Use copious amounts of water spray or fog to absorb ammonia vapor. DO NOT put water on liquid ammonia. Contain run-off to prevent ammonia from entering a stream, lake, sewer, or ditch. Any release of this material, during the course of loading, transporting, unloading or temporary storage, must be reported to U.S. DOT as required by 49 CFR 171.15 and 171.16.

SECTION 7: HANDLING AND STORAGE

Refer to the ANSI K61.1 standard for storage and handling information. Protect containers from physical damage and temperatures exceeding 120°F. Use only approved storage systems. Zinc, copper, silver, cadmium, and their alloys must not be used in ammonia systems since they can be rapidly corroded by it. Avoid hydrostatic pressure, which can cause equipment rupture, by adhering to proper filling procedures and the use of hydrostatic pressure relief valves where appropriate.

SECTION 8: EXPOSURE CONTROLS/PERSONAL PROTECTION

RESPIRATORY PROTECTION: Respiratory protection approved by NIOSH / MSHA for ammonia must be used when exposure limits are exceeded. Whether chemical canister respirator or self-contained breathing apparatus is sufficient for effective respiratory protection depends on the type and magnitude of exposure.

SKIN PROTECTION: Rubber gloves and rubber or other types of approved protective clothing should be used to prevent skin contact. A face shield should be used for increased protection from contact with liquid or vapor.

EYE PROTECTION: Chemical splash goggles, approved for use with ammonia, must be worn to prevent eye contact with liquid or vapor. A face shield should be used for increased protection from contact with liquid.

VENTILATION: Local positive pressure and/or exhaust ventilation should be used to reduce vapor concentrations in confined spaces. Ammonia vapor, being lighter than air, can be expected to dissipate to the upper atmosphere. Ammonia concentrations may also be reduced by the use of an appropriate absorbent or reactant material.

SECTION 9: PHYSICAL AND CHEMICAL PROPERTIES

BOILING POINT: -28.1°F

SOLUBILITY IN WATER: High

MELTING POINT: -107.9°F

PERCENT VOLATILE BY VOLUME: 100%

VAPOR PRESSURE: 4802.9 mm Hg @ 60°F or 107.6 psia.

SPECIFIC GRAVITY: 0.62 @ 60°F (water=1)

VAPOR DENSITY: 0.60 @ 32°F (Air=1)

pH: Approx. 11.6 for 1 N Sol'n. in water

APPEARANCE: Colorless, pungent gas

SECTION 10: STABILITY AND REACTIVITY

STABILITY: Material generally considered stable. Heating above ambient temperature causes rapid increase of vapor pressure.

INCOMPATIBILITY (materials to avoid): Ammonia can react violently with strong acids. Under certain conditions, ammonia reacts with bromine, chlorine, fluorine or iodine to form compounds, which explode spontaneously. Reactions of ammonia with gold, silver or mercury to form explosive fulminate-like compounds has been reported.

HAZARDOUS DECOMPOSITION PRODUCTS: Hydrogen on heating to over 850°F. The decomposition temperature may be lowered to 575°F by contact with certain metals such as iron or nickel.

HAZARDOUS POLYMERIZATION: Will not occur

CONDITIONS TO AVOID: Not applicable

SECTION 11: TOXICOLOGICAL INFORMATION

Ammonia is a strong alkali and readily damages all body tissues. Ammonia is not a cumulative metabolic poison.

Carcinogenicity, Reproductive, Mutagenicity, Teratogenicity Effects: No information is available and no adverse effects are anticipated. **Synergistic Materials:** None known.

SECTION 12: ECOLOGICAL INFORMATION

AQUATIC TOXICITY: 2.0-2.5 ppm/1-4 days/ goldfish and yellow perch/LC;

WATERFOWL TOXICITY: 120 ppm

60-80 ppm/3 days/crayfish/LC₁₀₀;

BIOCHEMICAL OXYGEN DEMAND: Not pertinent

8.2ppm/96hr/fathead minnow/TLm

FOOD CHAIN CONCENTRATION POTENTIAL: None

SECTION 13: DISPOSAL CONSIDERATIONS

Recover ammonia if feasible. Otherwise, let ammonia evaporate if appropriate. Only personnel experienced in ammonia spills should add water to liquid ammonia. Dispose of diluted ammonia as a fertilizer or in an industrial process. For Hazardous Waste Regulations call (800) 424-9346, the RCRA Hotline.

SECTION 14: TRANSPORT INFORMATION

	DOMESTIC SHIPMENTS	INTERNATIONAL SHIPMENTS	CANADIAN TDG ACT
Proper shipping name:	Ammonia, Anhydrous	Ammonia, Anhydrous	Ammonia, Anhydrous
Shipping Class:	DOT 2.2 (nonflammable gas)	2.3 (poison gas)	2.4 (9.2)
Identification Number:	UN1005	UN1005	UN1005
Packing Group:	None	None	None

SECTION 15: REGULATORY INFORMATION

NOTICE: This product is subject to the reporting requirements of SARA (1986, Section 313 of Title III) and 40 CFR Part 370. Be sure to verify and comply with state and local regulations.

CERCLA/SUPERFUND, 40 CFR 117.302: Unpermitted releases of 100 lb. or more of ammonia in any 24-hour period must be reported immediately to the NRC at 1-800-424-8802, the SERC, and the LEPC. Written follow-up is required to SERC & LEPC.

OSHA HAZARD COMMUNICATION RULE, 20 CFR 1910.1200: Ammonia is considered a hazardous chemical.

TOXIC SUBSTANCE CONTROL ACT: This material is listed in the TSCA Inventory.

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (SARA, TITLE III): Section 302 Extremely Hazardous Substance: Yes; Section 311/312 Hazardous Categories: Immediate (Acute) Health Hazards; Section 313 Toxic Chemical: Yes.

WHMIS: One percent (1%) **CALIFORNIA PROPOSITION 65:** Reproductive: No Carcinogen: No

OSHA PROCESS SAFETY MANAGEMENT, 29 CFR 1910.119: This product is subject to the Process Safety Management requirements of 29 CFR 1910.119 if maintained on-site in quantities of 10,000 lb. or greater.

EPA CHEMICAL ACCIDENTAL RELEASE PREVENTION, 40 CFR PART 68: This product is subject to the Risk Management Plan requirements of 40 CFR Part 68 if maintained on-site in quantities of 10,000 lb. or greater.

DRINKING WATER: Maximum use dosage in potable water is 5mg/l.

SECTION 16: OTHER INFORMATION

REASON FOR REVISION: 1. Addition of new Toll Free Customer Service Number in Section 1. 2. Revised LEL and UEL from 16-25% to 15-28%. 3. Company name change from LaRoche Industries to Airgas Specialty Products. 4. Canadian transportation emergency information added. 5. California PEL limits added. 6. LEL and UEL Revised: 16-25%. 7. Company address changed.

MSDS PREPARED BY: Airgas Specialty Products

This information is taken from sources or based upon data believed to be reliable, however, Airgas Specialty Products makes no warranty as to the absolute correctness or sufficiency of any of the foregoing or that additional or other measures may not be required under particular conditions.

MilMar Food Group, LLC

6 1/2 STATION RD, GOSHEN, NEW YORK 10924
EVACUATION PLAN

