

**BEFORE THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

**IN THE MATTER OF:**

**Rural Gas, Inc.,  
  
(Respondent),**

PHMSA Case No. 11-0043-SNT-CE

**COMPROMISE ORDER**

**By this Order I find that Rural Gas, Inc. (Respondent) committed three violations of the Hazardous Materials Regulations (HMR), 49 C.F.R. Parts 171-180. Accordingly, I assess Respondent a \$6,500 civil penalty for these violations.**

**I. Summary**

Respondent: Rural Gas, Inc.  
201 M Street  
Belleville, KS 66935  
Attn: Bruce Ball, Owner

No. of Violations: 3

Total Payment Due: \$6,500

**II. Finding**

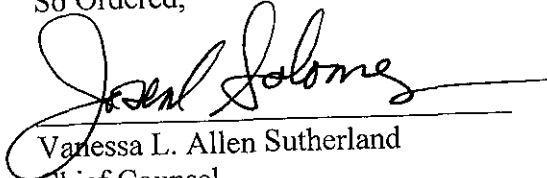
This matter comes before me after Respondent and the Pipeline and Hazardous Materials Safety Administration (PHMSA) agreed to a disposition of this civil enforcement action. I have reviewed the Compromise Agreement (Agreement) and I find the terms as outlined therein are in the best interest of justice. I find Respondent

committed the violations as described in the Agreement, which is attached as Addendum A to this Order, and I impose a civil penalty of **\$6,500**. Respondent must pay the civil penalty in accordance with the instructions contained in addendum B to this Order.

The attached Agreement, in its entirety, is incorporated into this Order. All of the terms and conditions of the Agreement shall be given the full force and effect of an Order issued pursuant to the Federal hazardous materials transportation law, 49 U.S.C. § 5101, et seq., or the Hazardous Materials Regulations, 49 C.F.R. Parts 171 – 180.

Dated: 4/9/2013

So Ordered,



Vanessa L. Allen Sutherland  
Chief Counsel

*for* Pipeline and Hazardous Materials Safety Administration

## CERTIFICATE OF SERVICES

This is to certify that on the 10<sup>th</sup> day of April, 2013, the undersigned served in the following manner the designated copies of this Order with attached addendums to each party listed below:

Mr. Bruce Ball, Owner/Manager  
Rural Gas, Inc.  
201 M Street  
Belleville, KS 66935

Original Order with  
Copy of Agreement  
Certified Mail Return Receipt

Mr. Robert Clatterbuck, Acting Chief  
Hazardous Materials Enforcement Office  
2300 East Devon Avenue, Suite 478  
Des Plaines, IL 60018-4696

One Copy (without enclosures)  
Via Electronic Mail

Amelia Samaras, Attorney  
Pipeline and Hazardous Materials  
Safety Administration  
Office of Chief Counsel

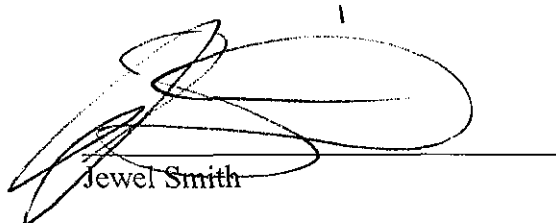
One Copy (without enclosures)  
Via Electronic Mail

Mr. Terry Pollard, Investigator  
Hazardous Materials Enforcement Office  
2300 East Devon Avenue, Suite 478  
Des Plaines, IL 60018-4696

One Copy (without enclosures)  
Via Electronic Mail

U.S. DOT Dockets  
U.S. Department of Transportation  
1200 New Jersey Ave., S.E.  
East Building  
Washington, D.C. 20590

One Copy  
Personal Delivery

  
Jewel Smith

**BEFORE THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

<b>IN THE MATTER OF:</b>
 <b>Rural Gas, Inc.,</b>  <b>(Respondent)</b>

PHMSA Case No. 11-0043-SNT-CE

**COMPROMISE AGREEMENT**

**I. Parties**

The Parties to this Compromise Agreement (Agreement) are:

Rural Gas, Inc. ("Respondent"), a shipper and carrier of agricultural fertilizers including anhydrous ammonia, located at 201 M Street, Belleville, KS66935  
and

**The Pipeline and Hazardous Materials Safety Administration ("PHMSA")**, a modal Administration of the United States Department of Transportation.

**II. Authority/Jurisdiction**

A. The Parties enter into this agreement under authority of 49 U.S.C. § 5123(e) and 49 C.F.R. § 107.327(a)(1).

B. For the Purposes of this Agreement, Respondent acknowledges:

(1) As a person who transports hazardous materials, Respondent is a regulated entity subject to the Hazardous Materials Regulations (HMR) and to the jurisdiction of (a) the Secretary of Transportation, (b) the PHMSA's Associate Administrator for Hazardous Materials Safety, and (c) PHMSA's Office of Chief Counsel (49 U.S.C. § 5103(b) and 49 C.F.R. § 107.301);

(2) PHMSA has sufficient proof to show, by a preponderance of the evidence, Respondent's violation of the Federal regulations listed in Section V below; and

(3) Respondent received proper notice of PHMSA's actions in this proceeding.

### III. Background

A. On April 21 and 22, 2010, an inspector from PHMSA's Office of Hazardous Materials Enforcement (OHME) conducted a routine compliance inspection at Respondent's business pursuant to 49 U.S.C. § 5121 and 49 C.F.R. § 107.305. PHMSA's inspector reported three alleged violation[s] of the HMR. At the conclusion of the compliance inspection, PHMSA's inspector conducted an "exit briefing" during which the inspector discussed the alleged violations and the required corrective actions with Respondent's representative.

B. Upon completion of the compliance inspection, the inspector submitted a report to the chief of OHME's Central Region, who reviewed the report for accuracy and sufficiency of evidence. Based on that review, the Region Chief referred the matter to PHMSA's Office of Chief Counsel thereby recommending the initiation of a civil penalty action against Respondent pursuant to 49 C.F.R. § 107.311.

C. Based on a preliminary assessment of the apparent nature, circumstances, extent, and gravity of the probable violations, as set forth in the inspector's report, on October 1, 2012, an attorney from the PHMSA's Office of Chief Counsel issued a Notice of Probable Violation (Notice) alleging three violations of the HMR and proposing a \$10,600 civil penalty.

### IV. Basis of Agreement

A. Reply to Notice. On October 22, 2012, Respondent submitted a timely reply to the Notice. In its reply, Respondent contended and provided evidence that it had submitted corrective action documentation to PHMSA that had not been considered in the Notice. The PHMSA attorney then reviewed the documentation, and requested further/more detailed corrective action documentation.

B. Corrective Action. In its February 1, February 22, and March 13 correspondences, Respondent submitted further evidence of corrective actions it had taken. The following is a summary of all of Respondent's corrective actions.

Violation Number	Respondent's Corrective action
1	Respondent provided inspection reports for tanks A13 and A14 showing that they successfully underwent pressure, thickness, and external visual inspections. Respondent also provided photos of the tanks that display markings indicating that they passed the above inspections. Respondent provided an affidavit stating that tanks A7 and A8 have been taken out of service. The tanks are prohibited from moving hazardous materials until they have undergone proper testing.
2	Respondent provided photographs of its nurse tank fleet with updated proper

	shipping name or common name, i.e. "anhydrous ammonia" markings on each side and each end of the tanks. Respondent will continue to update and maintain these markings as needed.
3	Respondent provided updated MC-331 inspection reports.

C. Finances. Respondent did not request mitigation based on finances.

D. Informal Conference. The PHMSA attorney and Respondent's counsel spoke on the phone various times about corrective action measures and documentation required. After Respondent provided the final piece of corrective action documentation, the PHMSA attorney and Respondent's counsel spoke on March 22, 2013 regarding final disposition of the case.

E. Small Business Size. Evidence in the record also substantiates that Respondent is a small business.

#### V. Violations and Civil Penalty

In a subsequent Order, the Chief Counsel will find that Respondent committed the following violations and will assess the following civil penalty:

Viol. No.	HMR Violation	NOPV Penalty Amount	Compromise Penalty Amount
1	Respondent offered for transportation and transported a hazardous material, RQ, Ammonia, anhydrous, 2.2 UN 1005, for transportation in commerce in unauthorized, non-specification packages that did not have a legible ASME data plates and had not been certified for operation without legible data plates, in violation of 49 C.F.R. §§ 171.1(b); 171.2(a), (b), (c), (e), and (g); 173.22(a)(2); 173.22a(a); 173.315(m); and 173.24(c).	\$7,000	\$4,460
2	Respondent offered a hazardous material, RQ, Ammonia, anhydrous, 2.2 UN 1005, for transportation in commerce without marking the proper shipping name or common name on each side and end of the cargo tank and failing to placard and mark the UN identification number on the front and rear of each tank, in violation of 49 C.F.R. §§ 171.1(b); 171.2(a), (b), and (e); 172.328(b); 172.504(a); and 173.315(m).	\$3,200	\$2,040
3	Respondent offered for transportation and transported liquefied petroleum gas, 2.1, UN 1075 in	Warning Item	Warning Item

	commerce in DOT specification MC-331 cargo tanks while failing to have complete tank/cargo tank inspection reports, in violation of 49 C.F.R. §§ 171.1(b); 171.2(a), (b), (c), (e), and (g); 180.407(c); and 180.417(b).		
TOTAL		\$10,200	\$6,500

#### VI. Factors Considered in Determining the Civil Penalty

In determining the amount of a civil penalty, PHMSA considered the following statutory criteria (49 U.S.C. § 5123(c)):

- (1) The nature, circumstances, extent, and gravity of the violations;
- (2) The degree of culpability and history of prior violations;
- (3) Respondent's size; and
- (4) Other matters as justice may require.

Documentation of Respondent's corrective actions, including the fact that Respondent had provided corrective action documentation for these violations prior to the issuance of the Notice that was not considered and the fact that Respondent is a small business, justify assessing a civil penalty of \$6,500.

#### VII. Terms and Conditions

A. Respondent agrees to pay the sum of \$6,500, as full satisfaction of the civil penalty proposed in the Notice. Respondent is to make the payment within 30 days from the date the Chief Counsel issues the Final Order, which will issue after Respondent signs and returns this agreement.

B. By entering into this agreement, Respondent waives any right:

- (1) to present further written or oral explanations, information, and arguments in this matter;
- (2) to Administrative appeal; and
- (3) to seek judicial review or otherwise contest or challenge the validity of this Agreement or the Notice associated with this case.

C. This Agreement resolves only the violations noted in PHMSA Case No. 11-0043-SNT-CE as referenced in Section V of this agreement and in the Notice. In the event Respondent commits any future violations of the Federal hazardous material transportation law, 49 U.S.C. § 5101 *et seq.*, the HMR, or any exemption, or order issued thereunder these violations shall constitute a prior violation under 49 U.S.C. § 5123.

D. After Respondent signs and returns this Agreement, PHMSA's representative will present the Agreement to the Chief Counsel requesting that the Chief Counsel adopt the terms of this Agreement by issuing a Compromise Order (49 C.F.R. § 107.327(a)(1)). The terms of this Agreement constitute an offer of compromise until accepted by the Chief Counsel.

E. After issuance of the Compromise Order, Respondent must pay the civil penalty in accordance with the terms of this Agreement. Upon receipt of Respondent's final payment, the Chief Counsel will close this case with prejudice to the Respondent (49 C.F.R. § 107.327(a)(1)(ii)).

### VIII. Miscellaneous Provisions

A. By signing this Agreement, Respondent or its representative warrants to have read the agreement and understood its terms and conditions.

B. The individuals signing on behalf of the Respondent and PHMSA represent that they are authorized to sign and have authority to enter into this Agreement.

C. Respondent's failure to sign and return this agreement within thirty (30) days from its receipt will result in the withdrawal of the offer of compromise contained within this Agreement and the Chief Counsel will issue an Order pursuant to 49 C.F.R. § 107.317(d).

D. Respondent must return the signed Agreement to:

Amelia Samaras, Attorney  
United States Department of Transportation  
Pipeline and Hazardous Materials Safety Administration  
Mail Stop: E26-105  
1200 New Jersey Ave., SE  
Washington, D.C. 20590-0001

Or

amelia.samaras@dot.gov

### Respondent

Federal Tax ID #: 48-0687474<sup>1</sup>

By: Bruce Ball  
Bruce Ball, Manger

Date: 4-3-13

<sup>1</sup> The Taxpayer Identifying Number is required by 31 U.S.C. § 7701(c)(3). PHMSA will use this number for purposes of collecting and reporting on any delinquent amounts arising out of this agreement.



**Pipeline and Hazardous Materials Safety Administration**

By: Atelia Samaras  
Atelia Samaras, Attorney

Date: 4/9/13

### *Payment Information*

Rural Gas, Inc. (Respondent) must pay a total civil penalty of \$6,500 in accordance with the following:

#### Due date

Respondent must make the payment of \$6,500 within **30** days of the date of this Order.

#### Payment Method

Respondent must pay the civil penalty by one of the following: (1) wire transfer, (2) certified check or money order, or (3) credit card via the Internet.

(1) Wire Transfer.

Detailed instructions for sending a wire transfer through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury are contained in the enclosure to this Order. Please direct questions concerning wire transfers to:

Financial Operations Division  
Attn: Robin Cecil  
Federal Aviation Administration  
Mike Monroney Aeronautical Center  
AMZ-341  
P.O. Box 269039  
Oklahoma City, OK 73125  
Telephone (405) 954-8893.

(2) Check or Money Order.

Make check or money order payable to "U.S. Department of Transportation" (include the Ref. No. of this case on the check or money order) and send to:

Chief, Financial Operations Division  
Attn: Taushayna Wright  
Federal Aviation Administration  
Mike Monroney Aeronautical Center  
AMZ-341  
P.O. Box 269039  
Oklahoma City, OK 73125.

(3) Credit Card.

To pay electronically using a credit card, visit the following website address and follow the instructions:

<https://www.pay.gov/paygov/>

**INSTRUCTIONS FOR ELECTRONIC FUNDS TRANSFER TO  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION,  
U.S. DEPARTMENT OF TRANSPORTATION**

1. <u>RECEIVER'S ABA NO.</u> 021030004	2. <u>TYPE SUBTYPE</u> (provided by sending bank)
3. <u>SENDING BANK ARB NO.</u> (provided by sending bank)	4. <u>SENDING BANK REF NO.</u> (provided by sending bank)
5. <u>AMOUNT</u>	6. <u>SENDING BANK NAME</u> (provided by sending bank)
7. <u>RECEIVER NAME:</u> TREAS NYC	8. <u>PRODUCT CODE</u> (Normally CTR, or sending bank)
9. <u>BENEFICIAL (BNF)- AGENCY LOCATION CODE</u> BNF=/AC-69140001	10. <u>REASONS FOR PAYMENT</u> <i>Example: PHMSA Payment for Case #/Ticket</i>

**INSTRUCTIONS:** You, as sender of the wire transfer, must provide the sending bank with the information for Block (1), (5), (7), (9), and (10). The information provided in blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation

**Block #1** - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this nine digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

**Block #5** - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE:**  
**\$10,000.00**

**Block #7** - RECEIVER NAME- "TREAS NYC." Ensure the sending bank enters this abbreviation, which must be used for all wire transfer to the Treasury Department.

**Block #9** - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/AC-69140001"  
Ensure the sending bank enters this information. This is the Agency Location Code for Pipeline and Hazardous Materials Safety Administration, Department of Transportation

**Block #10** - REASON FOR PAYMENT – “AC-Payment for PHMSA Case#” To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number.”

**Note:** - A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You, as the sender, can assist this process by notifying, at the time you send the wire transfer, the General Accounting Division at (405) 954-8893.