



August 23, 2018

Via Electronic Submission

Mr. James Belke
U.S. Environmental Protection Agency
Office of Emergency Management
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

**RE: EPA Risk Management Program Reconsideration Proposed Rule; Docket # EPA-HQ-OEM-2015-0725-0890; Federal Register (83 FR24850-24883);
May 30, 2018**

Dear Mr. Belke:

On behalf of the Agricultural Retailers Association (ARA), I am submitting comments in support of the EPA's Risk Management Program (RMP) Reconsideration proposed rule. The purpose of the proposed changes will promote better emergency planning and public information about accidents while resulting in significant costs savings for RMP regulated facilities.

Statement of Interest

ARA is a not-for-profit trade association that represents America's agricultural retailers and distributors. ARA members provide goods and services to farmers and ranchers which include: fertilizer, crop protection chemicals, seed, crop scouting, soil testing, custom application of pesticides and fertilizers, and development of comprehensive nutrient management plans. Retail and distribution facilities are scattered throughout all 50 states and range in size from small family-held businesses or farmer cooperatives to large companies with multiple outlets.

Comments

ARA members play an important role in providing farmers with essential crop input products such as fertilizers, pesticides, seed and equipment. Anhydrous ammonia is an efficient and widely used source of nitrogen fertilizer, especially for crops such as corn. Some of the reasons for its importance is that the fact it is by far the most concentrated at 82% nitrogen; can be applied long before the crop is planted (even in the Fall); and usually represents a less expensive source of nitrogen. However, it is considered a hazardous material and toxic inhalation hazard (TIH) as needs to be stored, handled, transported, and applied with care. Our industry is fully committed and understands the importance of chemical safety and security. ARA members communicate and engage with employees, local first responders, and the community to all environmental, health, safety and security matters.

ARA and The Fertilizer Institute (TFI) established a non-profit compliance assistance and training program called ResponsibleAg in 2014. RA promotes the public welfare by assisting agribusinesses as they seek to comply with federal regulatory requirements, including the RMP regulations. RA

provides participating facilities a federal regulatory compliance audit related to the safe storage and handling of fertilizer like anhydrous ammonia and provides recommendations for corrective action where needed. The RA website provide a robust amount of compliance assistance resources. To date, 2,537 facilities have registered and joined the ResponsibleAg program; of those 1,158 facilities have been RA certified. Currently there are at least 185 independent trained auditors and of those 115 are credentialed. Of the 2,180 completed RA audits there have been approximately 68,577 risks identified and 42,672 risks mitigated. Those most serious risks found for RMP facilities related to paperwork. There were also some label and signage compliance issues. Of all audits, only 0.4% of issues resolved were of any significance. As we have indicated in previous public comments to the agency, both verbal and written, ARA believes the RMP regulations prior to the January 13, 2018 final rule were and are working very well. The data collected by the RA program and EPA clearly shows that is the case.

ARA agrees with EPA's proposal to address the potential risk of new information disclosure requirements. Also, as pointed out in the reconsideration proposed rule the Bureau of Alcohol, Tobacco & Firearms (BATF) found that one of the key rationales used by the previous Administration for significant changes to the RMP regulation was a criminal act of arson at the West Fertilizer facility rather than the result of an accident. All viable accidental and natural fire scenarios were hypothesized, tested, and eliminated as the cause of the explosion. In addition, the explosion related to ammonium nitrate fertilizer, which is not regulated by RMP. AN fertilizer is regulated by OSHA under their storage and handling regulations 1910.109i. While there were two 12,000-gallon anhydrous ammonia pressure vessels located near the AN storage facility. The tanks only received limited damage and worked as intended without any major failure or off-site release. To our knowledge the West Fertilizer facility had an updated RMP Program 2 plan on file with the EPA and was following the regulatory requirements. They also filed their Tier 2 reports with the proper state and local officials.

As ARA has previously mentioned, the current RMP is working well. Why fix what is not broken? Given the strong RMP safety record and current struggles within the agricultural industry related to low commodity prices, increased transportation costs, uncertainty related to trade it makes no sense for EPA to require facilities to spend thousands of dollars for more paperwork that does not make the public any safer and will only lead to facility closures and job losses in rural communities.

ARA supports better coordination between EPA and OSHA when it comes to regulatory consistency. ARA recommends both agencies update their Memorandum of Understanding (MOU) as it relates to the handling of chemical accidents and should expand that MOU to include the U.S. Department of Homeland Security (DHS), Chemical Safety Board (CSB) and BATF. An MOU would lay out the proper regulatory authority of the agencies related to the regulated industries and help provide greater clarity regarding enforcement and compliance efforts.

ARA supports providing more flexibility for regulated facilities to work with state and local emergency responders and officials. Building productive relationships with first responders will foster a better understanding of the facility and ensure, in the event of an accident, first responders know how to approach the facility, reduce risk, and limit the potential for more significant damage or threat to the local community.

ARA developed a First Responder Guidance document to help with this effort and welcome the opportunity to work closer with EPA, OSHA, and state and local officials to further develop those

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relationships and training opportunities. An additional measure ARA recommends is for EPA to reformat the Tier II reports to ensure they are more user friendly and understandable. These are the reports emergency responders receive with information on the chemicals stored at an RMP facility.

ARA looks forward to continuing working with EPA and other agencies to increase compliance assistance through coordination of voluntary industry programs such as RA and focusing on targeted regulatory updates to address known issues.

Thank you for your review and consideration of our comments! We strongly support the RMP Reconsideration proposed rule as EPA did not adequately address those issues in the final rule issued on January 13, 2017. Please contact me at 202-595-1699 or richard@aradc.org if you have any questions or need additional information.

Sincerely,

A handwritten signature in blue ink that reads "Richard D. Gupton". The signature is written in a cursive style with a large, stylized "R" and "G".

Richard D. Gupton
Senior Vice President, Public Policy & Counsel