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# United States Senate

CHARLES E. GRASSLEY

WASHINGTON, DC 20510-1501

November 10, 2015

The Honorable Thomas E. Perez  
Secretary  
U.S. Department of Labor  
200 Constitution Ave., N.W.  
Washington, D.C. 20210

Dear Secretary Perez:

I am writing to express my concerns regarding a rule related to retailers of anhydrous ammonia and Process Safety Management (PSM) requirements. The Occupational Safety and Health Administration (OSHA) issued guidance in July dictating new rules designed to prevent tragedies like the explosion involving ammonium nitrate at the West, Texas fertilizer plant. I am however concerned that the new interpretation of the existing rule and the resulting elimination of the "retail exemption" was not subject to public comment or the standard rule making process.

Industry analysis projects compliance costs for the new PSM requirements will likely exceed \$25,000 per facility and cost the overall industry in excess of \$100 million. An estimated 4,800 facilities will be forced to comply with the new requirements. While some facilities that handle large volumes of anhydrous may be able to absorb those costs, small retailers that sell to farmers will undoubtedly pass the compliance costs directly on to farmers or in some cases be forced to quit selling anhydrous.

I appreciate the Department's recent announcement to delay enforcement of the new rules for six months until July 22, 2016. However, I still have questions about the validity of eliminating the retail exemption for anhydrous ammonia retailers. To better understand the rationale behind the new requirements for anhydrous ammonia retailers, please provide answers to the following questions:

- 1) How many anhydrous ammonia retailers have safety accidents in an average year?
- 2) How many accidents per year are expected to be prevented by subjecting retailers of anhydrous ammonia to Process Safety Management regulations?
- 3) Please provide a breakdown of the agency's stated \$2,160 cost of compliance per facility, clearly indicating the amounts that would be paid to engineers and/or consultants and any capital expenditures for facility upgrades.

I look forward to hearing back from you on this important matter. If you have any questions, please contact Andrew Brandt of my staff at 202-224-3744.

Sincerely,

  
Charles E. Grassley

Committee Assignments:

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JUDICIARY

AGRICULTURE  
BUDGET  
FINANCE

CO-CHAIRMAN,  
INTERNATIONAL NARCOTICS  
CONTROL CAUCUS