

## Highlights & Interpretations from EPA Interview

By Jake Tilley, SCS Tracer Environmental

The previous three articles in this column presented an interview with the USEPA based on a series of questions regarding the Risk Management Program (RMP), which is part of the Clean Air Act 40 CFR Section 112(r). The interviewees included: **Mary Wesling** and **Robert Lucas**, both from Region 9. Ms. Wesling has served as the Enforcement Coordinator for the RMP and EPCRA regulations for 17 years, while Mr. Lucas has 14 years experience and more than 260 RMP inspections under his belt.

I thought it would be valuable to review some of the highlights of our dialogue and offer some interpretations and comments. Please note that although Ms. Wesling and Mr. Lucas represent the EPA, there is no guarantee that inspectors in other regions of the U.S. maintain identical interpretations and perspectives on these topics.

***The General Duty Clause (GDC) provisions are applied during EPA inspections at facilities with less than 10,000 pounds of ammonia.***

- o The threshold quantity of ammonia is 10,000 pounds for the RMP, however, EPA has explicit authority under GDC CAA 112(r)(7) to enforce industry standards and local regulations. Review this relevant EPA Enforcement Alert:

<http://www2.epa.gov/sites/production/files/2015-02/documents/112renforcementalert.pdf>

***Some of the most egregious violations stem from poorly maintained equipment, which can often be compounded by poor or non-existent operating procedures and/or inadequate training.***

- o The EPA has authority to levy penalties for observed violations up to \$37,500 for each violation per day. These factors are used to calculate penalties: potential for harm, the extent of the deviation, the extent of any damages, the duration of the violation, size of the violating company (!), history of violations, etc.

***Deviations from industry guidelines and standards (RAGAGEPs) are typically only justified if the facility is moving in the direction of more stringent protective measures.***

- o With guidelines and standards being more and more visible in the ammonia refrigeration industry, it is very important for facilities to be aware of and consider these documents throughout the ongoing development of PSM and RMP policies and programs.

***Executive Order 13650 “Improving Chemical Facility Safety and Security” requires cooperation and communication between agencies on federal, state, and local levels.***

- o Various agencies including EPA, OSHA, DHS, DOT, ATF, and DOJ in collaboration with state and local governments are working together on a Federal Action Plan. There are likely to be changes / new requirements facing facilities that use ammonia in the near future.

***These are key elements for EPA inspectors: Recommendation tracking from various RMP policies, preventative maintenance (condition of equipment + recordkeeping), and ammonia inventory calculations.***

- o Recommendations for improvements in your RMP programs should be generated and tracked with documentation to show how the issues were resolved. An absence of corrective actions can be a red flag. An inspector’s first impression of the process equipment can go a long way towards a successful inspection. Ammonia inventory calculations need to be accurate in order to correctly estimate the potential impacts of the *Worst Case Scenario*.

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