



# AMERICAN SOCIETY OF SAFETY PROFESSIONALS

September 17, 2018

The Honorable Pat Roberts  
Chairman  
Committee on Agriculture, Nutrition, and  
Forestry  
United States Senate  
328A Russell Senate Office Building  
Washington, DC 20510

The Honorable K. Michael Conaway  
Chairman  
Committee on Agriculture  
U.S. House of Representatives  
1301 Longworth House Office Building  
Washington, DC 20515

The Honorable Debbie Stabenow  
Ranking Member  
Committee on Agriculture, Nutrition, and  
Forestry  
United States Senate  
328A Russell Senate Office Building  
Washington, DC 20510

The Honorable Collin C. Peterson  
Ranking Member  
Committee on Agriculture  
U.S. House of Representatives  
1010 Longworth House Office Building  
Washington, DC 20515

## **ASSP OPPOSITION TO INCLUSION OF SECTION 9131** **DEFINITION OF RETAIL FACILITIES IN H.R.2**

Dear Farm Bill Conferees:

The American Society of Safety Professionals (ASSP) is the nation's oldest and largest safety society. ASSP was founded in 1911 and now has over 38,000 members. We are committed to advocating for data-driven and solutions-based federal and state governmental policy decisions that assist our members in their mission to ensure workers return home safely each day to their families.

ASSP recommends the removal of Section 9131 from the House Farm Bill (H.R. 2). Our concern is that the consequences of this legislation will compromise the OSHA Process Safety Management of Highly Hazardous Chemicals Standard, (PSM). ASSP takes this position because the proposed language broadens the "retail exemption" from this standard to a wide array of facilities in scores of industries using any of 140 highly hazardous chemicals. Our concern is this would be done without a risk assessment or regard to the risk to workers or the public.

OSHA's PSM Standard sets forth requirements for the management of hazards associated with processes using highly hazardous chemicals. From its inception in 1992, it has exempted from its scope "retail" establishments, such as gas stations and garden supply stores, that



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handle small volume packages, containers, and allotments, because any release would likely not entail the risk of a catastrophic fire, explosion, or toxic cloud.

However, Section 9131 of H.R. 2 directs the Secretary of Labor to adopt by rule a definition of “retail facility” which exempts facilities which sell more than 50% of its output to an “end user”. Our concern is that if this language is included, a large loophole would be created through which chemical manufacturers could become “retail establishments” by virtue of whom they sell their products to, thus compromising safety.

In addition, ASSP believes that additional debate is needed regarding the overall PSM Standard and other changes that may be needed that will ensure the protective intent of the Standard. We feel strongly that this discussion would be most effective if held separately and independently of overarching comprehensive legislation such as the Farm bill.

Thank you for your attention to this matter and let us know if you should need any additional information or assistance from ASSP in this regard.

Sincerely Yours,

Rixio Medina, CSP, CPP  
ASSP President