



**Response to Canada Gazette, Part I, Volume 157, Number 49: Regulations Amending the Transportation of Dangerous Goods Regulations (Canadian Update)**

Thank you for the opportunity to provide feedback on the Regulations Amending the Transportation of Dangerous Goods Regulations (Canadian Update). We value Transport Canada's engagement with agricultural stakeholders as the Transportation of Dangerous Goods Regulations (TDGR) are revised.

As the national voice for Canada's grain farmers, Grain Growers of Canada (GGC) represents over 65,000 cereal, pulse, and oilseed producers through our 14 national, provincial, and regional grower groups. GGC advocates for federal policy that supports the competitiveness and profitability of grain growers across Canada. Our submission outlines how the proposed regulatory changes to the transportation of agricultural anhydrous ammonia will impact Canadian grain farmers' ability to use anhydrous ammonia fertilizer and we present a list of questions for consideration in the next steps of the regulatory process.

Fertilizers are critical to provide crops with essential nutrients for growth and anhydrous ammonia is one of the products used by Canadian farmers to provide readily available nitrogen to plants. While most anhydrous ammonia is delivered via Transport Delivery Units (TDUs) by agri-retailers, there are an estimated 2,000 producer-owned anhydrous ammonia nurse tanks used across Canada, predominantly in the prairie provinces. Under the proposed regulatory changes, should these farmers choose to transport their own anhydrous ammonia fertilizer, they will be subjected to costs ranging between \$24,000 to \$31,000 associated with writing assistance, maintaining an approved contractor and renewing an Emergency Response Assistance Plan (ERAP) over a five-year period. This is because the capacity of anhydrous ammonia tanks exceeds 3,000 litres and they are hauled over 3 kilometres. Most, if not all, of these grain farmers are small family run businesses.

The proposed regulatory changes weaken Canadian farmers' ability to access anhydrous ammonia fertilizer to grow crops. We do not support the proposed amendments as they are currently written due to the lack of data to support the assessment of risk associated with the current Section 1.24 exemption. We appreciate additional data or insights that Transport Canada can share regarding the rationale for these changes. We also strongly recommend that Transport Canada hold an interim consultation on the 1.24 amendments prior to the final regulations being published in Canada Gazette, Part 2.

**Feedback on Section 1.24**

***Tank Configuration & Volume***

Under current practices, farmers transport anhydrous ammonia via single, double, or triple configuration nurse tanks, each tank with a capacity less than 10,000 litres. Under the proposed changes, the use of triple configuration nurse tanks would be prohibited, and every other nurse tank would exceed the 3,000-litre exemption limit. Producers who have invested in triple-tank configurations would be unable to use these tanks, rendering the investment useless without any financial recourse. Transport Canada should seek additional data to support the claim that multi-tank configurations with more than two tanks pose a greater risk to public safety. As well, further data and clarification to justify the 3,000-litre ERAP limit is needed.

In addition, Fertilizer Canada has recently developed a mandatory Ammonia Code of Practice<sup>1</sup> to ensure anhydrous ammonia is transported safely. Specifically, section C10.5 requires that all multi-tank configurations, regardless of volume, require emergency discharge control. As a result of this Code, all tanks without this control had to be retrofitted to comply with the Code. In addition, producers are required to comply with Canadian Standards Association standards B620<sup>2</sup> and 622<sup>3</sup> for transporting and handling tanks. Transport Canada should seek updated data to understand if the implementation of the Ammonia Code of Practice has resulted in a decrease of releases.

### ***Allowable Distance***

Many farmers travel short distances from their operation to their retailer to fill anhydrous ammonia tanks. Decreasing the ERAP-exempt distance from 100 kilometres to 3 kilometres would require virtually every farmer-owned anhydrous ammonia tank to be covered under an ERAP. In addition, reducing the distance requirement would be inconsistent with the distances specified in sections 1.22 and 1.23 of the TDGR. We seek further data from Transport Canada supporting the 3-kilometer exemption limit and underscore how this distance restricts grain farmers' access to anhydrous ammonia.

### ***Emergency Response Assistance Plan (ERAP)***

Mandating farmers to file an Emergency Response Assistance Plan (ERAP) puts undue costs on producers. Transport Canada estimated the cost of an ERAP to range between \$1,000 and \$5,000<sup>4</sup>, however there are additional costs that are missing from the analysis. If farmers are mandated to file an ERAP, they will need to hire a consultant to draft an ERAP, which will cost between \$2,500 and \$3,000<sup>5</sup>. Following this, the producer will have to pay an annual retainer fee to the contractor identified in the ERAP, which ranges from \$3,500 to \$4,500 annually<sup>5</sup>. Furthermore, each time the producer renews their ERAP, they will have to use consulting services, adding an additional cost of \$500 to \$1,000 each renewal period<sup>5</sup>, which can be 1, 3, or 5 years. Table 1 shows that it will cost a Canadian grain producer between \$24,000 and \$31,000 every five years simply to write, retain, and renew an ERAP to comply with the new regulations. These costs will pose a substantial financial burden on grain farmers, especially given that most grain farms are small businesses.

*Table 1 – Estimated Cost of Maintaining an ERAP*

Year	Low Estimate	High Estimate
<b>0</b>	\$2,500 + \$3,500	\$3,000 + \$4,500
<b>1</b>	\$3,500	\$4,500
<b>2</b>	\$3,500	\$4,500
<b>3</b>	\$3,500	\$4,500
<b>4</b>	\$3,500	\$4,500
<b>5</b>	\$500 + \$3,500	\$1,000 + \$4,500
<b>Sum</b>	\$24,000	\$31,000

*Source: Author's calculations*

<sup>1</sup> Fertilizer Canada (January 2022). Ammonia Code of Practice. <https://fertilizercanada.ca/wp-content/uploads/2021/06/2022-Anhydrous-Ammonia-Code-of-Practice-July-2021.pdf>

<sup>2</sup> Canadian Standards Association CSA-B620: Highway tanks and TC portable tanks for the transportation of dangerous goods

<sup>3</sup> Canadian Standards Association CSA-B622

<sup>4</sup> Canada Gazette, Part I, Volume 157, Number 49: Regulations Amending the Transportation of Dangerous Goods Regulations (Canadian Update)

<sup>5</sup> Based on conversations with a consulting firm which writes ERAPs

Finally, it is unrealistic for producers to rely on being covered under another business' ERAP (i.e., an ag retailer). This is because the producer may not always source anhydrous ammonia from the same retailer, and it would thereby be difficult to enter into a written agreement when a farmer may rely on multiple businesses. In addition, this solution would subject ag retailers to undue liability, since the retailer would be responsible for nurse tanks located on private property.

### ***ERAP Phone Number***

Under current regulations, many nurse tanks already have a 24-hour emergency phone number listed on the tank in case of a release. Mandating the addition of the phone number associated with the ERAP on the nurse tank could add confusion to an urgent situation when reporting an anhydrous ammonia release. We recommend that tanks only be required to include a 24-hour emergency phone number rather than the ERAP phone number.

### **1.24 Regulatory Text Re-Write**

We recommend maintaining section 1.24 of the TDGR in its current format. However, if the regulations must be changed, we propose the revised regulatory text:

*(1) Parts 3, 7 and 17 do not apply to UN1005, ANHYDROUS AMMONIA, if it is contained in a single or multi configuration nurse tank on a road vehicle that is manually isolated and where required equipped with emergency discharge control as required in CSA B620 and, if it is transported on a public road, the distance travelled on the road is not more than 100 km.*

*(2) Parts 3 and 17 do not apply to UN1005, ANHYDROUS AMMONIA, if it is contained in a nurse tank in transport solely on land on a road vehicle and the nurse tank is marked with letters or numbers, at least 6 mm wide and 50 mm high, on two opposite sides, with a 24-hour emergency telephone number.*

*(3) For the purposes of this section, nurse tank has the same meaning as in CSA B620.*

### **Additional Questions**

In addition to our analysis above, we encourage Transport Canada to consider the following questions when moving into the next stages of the regulatory consultation:

#### **Rationale**

- What is the rationale for changing the regulations when anhydrous ammonia use is declining and most farmers who use anhydrous ammonia receive delivery via TDUs?
- What is the rationale behind changing the 100-kilometre distance to 3-kilometres when sections 1.22 and 1.23 of the TDGR still use 100-kilometres?

#### **Data**

- What updated data exists that suggests that anhydrous ammonia usage is increasing?
- What anhydrous ammonia incident data exists beyond 2016 that considers the effects that Fertilizer Canada's Ammonia Code of Practice has had on anhydrous ammonia safety?
- What data exists that suggests that single and double nurse tanks are safer for transportation that warrants disallowing the use of triple nurse tanks?
- Are there documented incidents of anhydrous releases that did not have an emergency response?

#### ERAP

- How will mandating an ERAP reduce the number of anhydrous ammonia releases?
- What are the costs associated with a producer who consults a professional to write an ERAP and the retainer costs of the contractor associated with their ERAP?
- Why is the ERAP phone number required in addition to the 24-hour emergency phone number and how will the new regulations prevent possible confusion over whom to call when multiple phone numbers are listed on a tank?
- During a continued inflationary period that is increasing the cost of inputs, how can grain farmers, the majority of whom are small family run operations, afford the extra costs associated with an ERAP?

We thank Transport Canada for engaging us on this file. We hope that our feedback clarifies how anhydrous ammonia is used in our industry and many of the safety measures already in place to protect Canadians. We would be pleased to schedule a follow-up discussion.