Legislative/Regulatory Update

National Agronomic Environmental
Health and Safety School
August 19, 2008

Pamela D. Guffain
Vice President of Member Services
The Fertilizer Institute

Transportation

- Special Permit 13554
  - Authorizes nurse tanks in commerce without the required American Society of Mechanical Engineers data plate
  - Tanks without the data plate and under the special permit must conduct:
    - Pressure test
    - External visual inspection
    - Thickness test
  - All 3 tests must be performed every 5 years

Transportation (cont.)

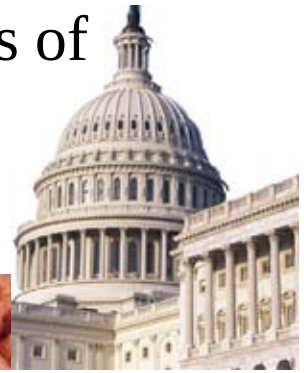
- Special Permit 13554
  - Permit was approved by the Department of Transportation (DOT) in 2005
  - To date over 11,000 nurse tanks tested
  - 357 tanks have failed one or more of the required tests

Transportation (cont.)

- Commercial Drivers License
  - Two recent proposed rulemakings
    - Minimum training requirements
    - Learners' permit standards
- Minimum Training Requirements
  - 120 hour training for new or upgraded Commercial Drivers Licenses (CDL) – effective 3 years from the date of the final rule
  - Seasonal CDL drivers are exempt

Transportation (cont.)

- Minimum Training Requirements (cont.)
  - TFI comments – cost of training which could be in the $5,000-$7,000 range
  - Requested a performance based standard so that drivers with a high level of skill and proficiency could be granted a CDL with less classroom and behind the wheel training time
  - Expressed concern over availability of training centers in rural areas
  - Requested an exemption similar to the agriculture hours of service exemption (100 air mile radius)



Transportation (cont.)

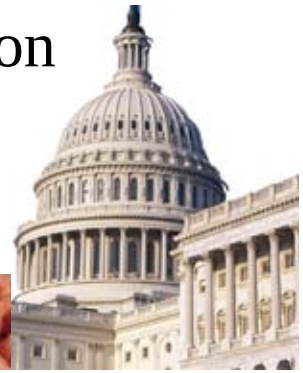
- Learners' Permit Standard
  - Proposal would not allow permit holders to train on double/triple vehicles, tank vehicles or vehicles carrying hazardous materials
  - A full-time CDL driver would have to drive with the permit holder for 30 days
  - After the 30 day training, the permit holder would still be required to have endorsement training

Transportation (cont.)

- Learners' Permit Standard
  - Requested exemption for seasonal drivers
  - Requested an exemption similar to the agriculture hours of service (100 air mile radius)
  - Expressed concern on driver availability

Rail Transportation

- Tank Cars
  - Association of American Railroads (AAR) announced new tank car standards for anhydrous ammonia and chlorine
  - Tank car owners, leasing companies, builders, shippers and the Federal Railroad Administration (FRA) opposed the AAR proposal
  - After several years of debate, the AAR agreed to withdraw the proposal if the FRA would issue proposed standards for new tank cars
  - The FRA did issue a notice of proposed rulemaking on April 1



Rail Transportation (cont.)

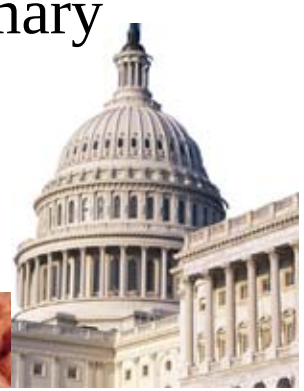
- Tank Cars (cont.)
  - AAR was dissatisfied with the timeline for implementation in the FRA proposal and reinstated its standard
  - Agreement between AAR and chlorine shippers for an interim chlorine car. The two organizations filed a petition together to FRA
  - TFI did not join the petition, electing to file a separate petition for an interim ammonia car
  - Both petitions are pending at FRA with a decision expected by November

Railroad Liability

- Railroads do not want to transport toxic-by-inhalation (TIH) materials such as ammonia
- Railroads have testified before Congress and the Surface Transportation Board (STB) to be relieved of the common carrier obligation or be protected from liability claims in the event of an accident
- STB has held two recent hearings on the common carrier obligation

Rail Liability (cont.)

- TFI has been working with the individual railroads and proposed:
  - To purchase an excess liability insurance policy and make it available to the railroads in the event of an accident involving the release of ammonia
  - Ammonia shippers would form a ‘captive insurance pool’
  - Agree to purchase the maximum amount of insurance possible ($1 billion)
  - Railroad would agree to maintain $500 million in primary insurance



Railroad Liability (cont.)

- TFI's proposal (cont.)
  - Railroads would negotiate with shippers in confidence for rate restructuring for ammonia shipments
  - TFI would work with the AAR through Congress for an overall liability cap
  - TFI has met with all 7 Class I railroads and received very favorable reaction to our proposal

» UNTIL……

Railroad Liability (cont.)

- At the July 22 hearing the railroads requested that STB issue a policy statement that would absolve the railroads totally in the event of an accident with a release of a TIH material
  - Railroads want to be held harmless and receive full indemnification by shippers

Chemical Security

- Facilities who completed the “top screen” assessment began receiving tier ranking letters on June 16
- Tiers 1 through 3 must utilize the Department of Homeland Security (DHS) Security Vulnerability Assessment (SVA)
- Tier 4 facilities may submit an alternative security program in lieu of DHS’ SVA (Asmark SVA for agricultural retailers)

Chemical Security (cont.)

- Following SVA submissions, facilities will receive final tier ranking or be told no further action required
- If you remain tiered, you will be required to submit a site security plan within 120 days of notification
- The federal requirements have preemption over all state programs
- Regulated facilities are not required to give any information to state agencies or law enforcement officials

Ammonium Nitrate

- Two issues regarding ammonium nitrate
  - Requirements under the chemical facility security regulations – 2000 pounds or more regulated
  - The “Secure Handling of Ammonium Nitrate Act of 2007” was signed into law in December 2007 but NO REGULATIONS at this time

Transportation Worker Identification Credential (TWIC)

- A TWIC is required to enter the “Secure Area” of a Maritime Transportation Security Act (MTSA) facility
- A regulated facility will define, with the Captain of the Port, the Secure Area
- If your facility is not regulated, but you pick up ammonia at a port terminal you need to verify with the terminal your need for a TWIC

TWIC Enrollment

- The Transportation Security Administration (TSA) has launched enrollment at all but four ports. TSA is required to complete compliance at all U.S. ports by September 2008

Security Action Items: Highway Security-Sensitive Materials

- Created by the TSA Office of Transportation Sector Network Management, Highway and Motor Carrier Division
- Voluntary security practices that should be considered for implementation by motor carriers transporting Tier 1 Highway Security-Sensitive Materials (HSSM) and Tier 2 HSSM.
- Tier 1 is anhydrous ammonia; Tier 2 is ammonium nitrate
- TSA has published a final document

Security Action Items

- Security Action Item's (SAI) have been divided into four categories:
  - General security; personnel security; unauthorized access; and en route security

Clean Water Restoration Act

- HR 2421 – Introduced in the 110th Congress - sponsored by Rep. James Oberstar (D-Minn.)
- Removes the term “Navigable” from the statute and replaces with “waters of the United States”
- Grants EPA jurisdiction over all activities affecting waters of the United States, which includes essentially all wet areas, including groundwater within a state

Clean Water Restoration Act (cont.)

- TFI involved with the Waters Advocacy Coalition (WAC)
- Broad representation of many different industries
- Successful in keeping the bill in committee
- Continue to monitor bill and work with Congress

Anhydrous Ammonia ANSI Standard

- Compressed Gas Association (CGA) has begun process to revise and update *American National Standard Safety Requirements for the Storage and Handling of Anhydrous Ammonia* (ANSI K61.1, or CGA G-2.1)
- This is the first revision of this standard since 1999
- Update will cover topics such as emergency response and preparedness; employee safety and injury response; container construction; fittings, pressure relief, modification, loading/unloading and location; removal of vessels from service; and tank safety and security

Anhydrous Ammonia ANSI Standard

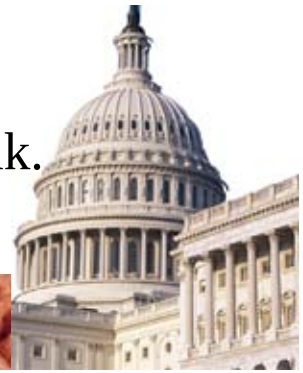
- Participants from major manufacturers, retailers, equipment suppliers, regulatory agencies (EPA), trade associations including TFI
- The committee will review comments until mid-October and then issue a final draft

Draft Nurse Tank Language to be Proposed

- In Section 11, added new second paragraph to read:
- “If a nurse tank is missing the required ASME dataplate, or the information on the dataplate is illegible it is out of compliance with USDOT regulations and therefore cannot be transported legally in commerce. USDOT issued a special permit (SP-13554) to The Fertilizer Institute (TFI) in January 2005 to allow nurse tanks without the required dataplate to operate in commerce under certain conditions as follows:
- (1) Each nurse tank authorized by the special permit must be inspected and tested by a person meeting the requirements of Sect. 180.409(d);
- (2) Prior to marking the nurse tank with the special permit number, the person marking the nurse tank must perform the following tests and inspections:

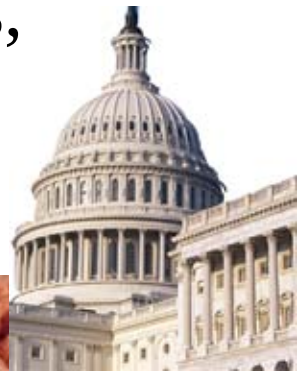
Draft Nurse Tank Language to be Proposed cont.

- a. External visual inspection and testing using the procedures specified in Sect. 180.407(d);
- b. Thickness tested using the procedures specified in Sect. 180.407(i). Nurse tanks with a capacity of less than 1,500 gallon must have a minimum head thickness of 0.203 inch and a minimum shell thickness of 0.239 inch. Nurse tanks with a capacity of 1,500 gallons and above must have a minimum thickness of 0.250 inch. Any nurse tank with a thickness test reading of less than that specified above on any point on the nurse tank must be removed from hazardous material service;
- c. Pressure tested using the procedures specified in Sect. 180.407(g). The minimum test pressure is 375 psig. Pneumatic testing is not authorized; and
- d. After the tanks have successfully passed the external visual inspection and thickness and pressure tests, the tanks must be marked in accordance with Sect. 180.415.
- (3) All tests must be preformed every 5 years.
- (4) The special permit number must be displayed on the nurse tank.
- (5) Welded repairs are prohibited.



State Grant Program

- Grants for state agribusiness associations up to $10,000 are available
- Seeks to encourage and support state and regional fertilizer associations to get involved in nutrient use issues
- Help promote accurate fertilizer use statistics and models, achieve water quality goals, promote right rate, right time, right place, right model message, and defend nutrient use in the political process
- Approved grants to Delaware/Maryland, Illinois, Michigan, Pennsylvania and Virginia



State Grant Program: How It Works

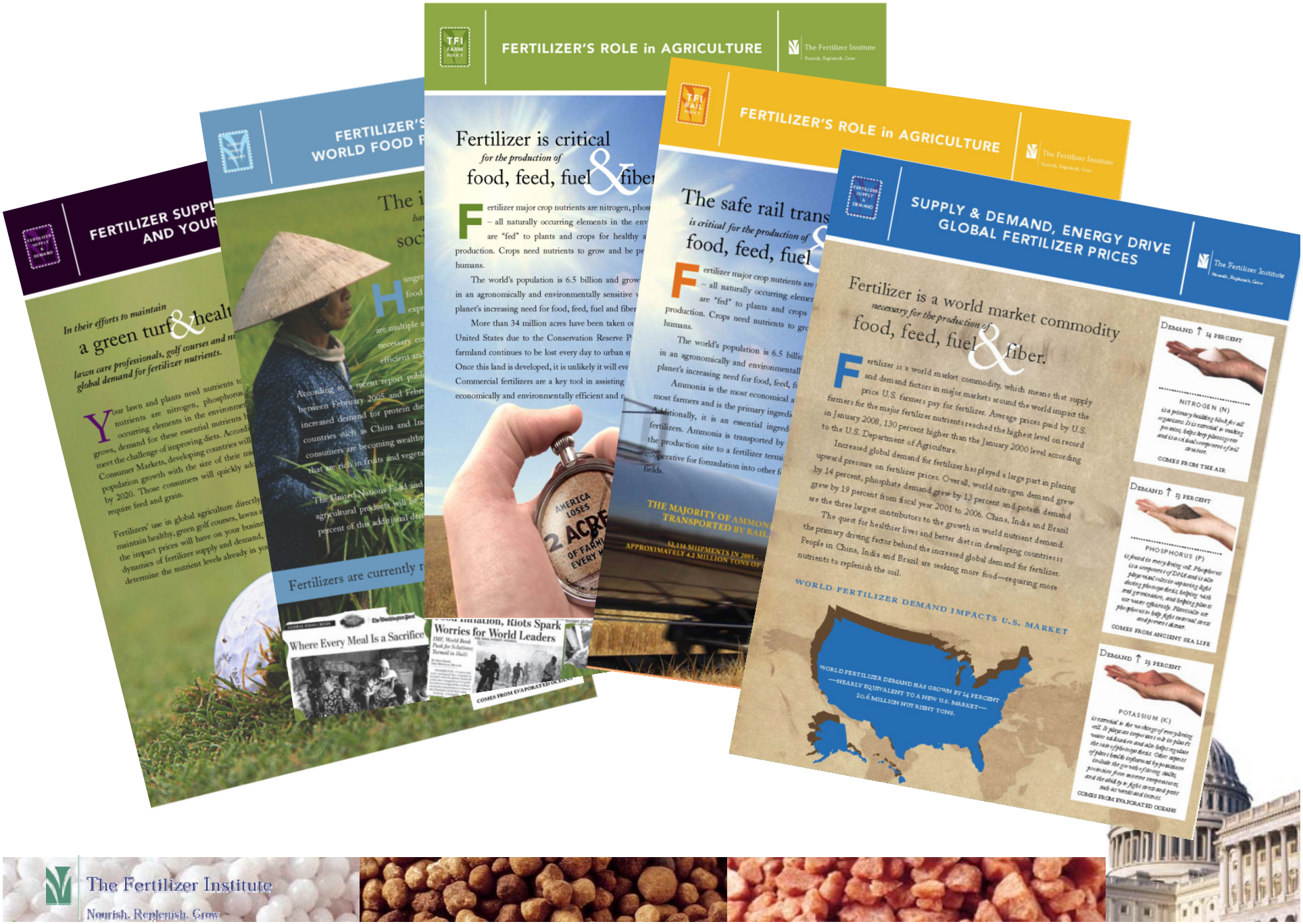
- Associations must submit a detailed grant application addressing the issues previously mentioned
- A four person grant committee reviews all applications for content
- Applications are approved, approved with modifications to be resubmitted by the state, or denied approval
- If a grant request is denied approval, the submitting association is encouraged to resubmit a different proposal
- TFI is handling the majority of printing in-house and will be co-branding printed documents with TFI and the respective state logos

Upcoming EPA Rule on Deicing Effluent Guidelines

- Met with EPA Office of Water Aug. 14
- Rule schedule is:
  - August 13 – final Agency review
  - Aug. 27 – Office of Management and Budget (OMB review)
  - Draft rule – November 2008 (mentioned 120 day comment period)
  - Final Rule – December 2009? (this could slip)
- Concern has been raised about a "whisper number" for effluent 0.1% ammonia
- This could severely restrict or eliminate the use of urea as an airport deicer
- We advised EPA of the Product Testing data we have generated and other data on the safety of urea

Upcoming EPA Rule on Deicing Effluent Guidelines

- Also advised that many airports are not near a water body – not clear yet if this would also impact them
- EPA has choice to regulate only airports near a jurisdictional body of water
- EPA not considering best management practices as an option as they claim data is too limited on efficacy
- EPA states in meeting “still considering a range of options regarding effluent limits”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a green turf & healt
lawn care professionals, golf courses and
global demand for fertilizer nutrients.
Your lawn and plants need nutrients
nutrients are nitrogen, phosphorus
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grows, demand for these essential nutrients
meet the challenge of improving diets. Accord
Consumer Markets, developing countries will
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Where Every Meal Is a Sacrifice
Worries for World Leaders
FERTILIZER'S ROLE in AGRICULTURE
The Fertilizer Institute
Nourish, Replenish, Grow
Fertilizer is critical
for the production of
food, feed, fuel & fiber
Fertilizer major crop nutrients are nitrogen, phos
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are "fed" to plants and crops for healthy
production. Crops need nutrients to grow and be pr
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The world's population is 6.5 billion and grow
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planet's increasing need for food, feed, fuel and fiber
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farmland continues to be lost every day to urban s
Once this land is developed, it is unlikely it will eve
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FERTILIZER'S ROLE in AGRICULTURE
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SUPPLY & DEMAND, ENERGY DRIVE
GLOBAL FERTILIZER PRICES
The Fertilizer Institute
Fertilizer is a world market commodity
necessary for the production of
food, feed, fuel & fiber.
Fertilizer is a world market commodity, which means that supply
and demand factors in major markets around the world impact the
price U.S. farmers pay for fertilizer. Average prices paid by U.S.
farmers for the major fertilizer nutrients reached the highest level on record
in January 2008, 130 percent higher than the January 2000 level according
to the U.S. Department of Agriculture.
Increased global demand for fertilizer has played a large part in placing
upward pressure on fertilizer prices. Overall, world nitrogen demand grew
by 14 percent, phosphate demand grew by 13 percent and potash demand
grew by 19 percent from fiscal year 2001 to 2006. China, India and Brazil
are the three largest contributors to the growth in world nutrient demand.
The quest for healthier lives and better diets in developing countries is
the primary driving factor behind the increased global demand for fertilizer.
People in China, India and Brazil are seeking more food—requiring more
nutrients to replenish the soil.
WORLD FERTILIZER DEMAND IMPACTS U.S. MARKET
WORLD FERTILIZER DEMAND HAS GROWN BY 14 PERCENT
—NEARLY EQUIVALENT TO A NEW U.S. MARKET—
20.6 MILLION NUTRIENT TONS.
DEMAND ↑ 14 PERCENT
NITROGEN (N)
COMES FROM THE AIR
DEMAND ↑ 13 PERCENT
PHOSPHORUS (P)
COMES FROM ANCIENT SEA LIFE
DEMAND ↑ 19 PERCENT
POTASSIUM (K)
COMES FROM EVAPORATED OCEANS
The Fertilizer Institute
Nourish. Replenish. Grow

Thank you!

Pam Guffain

202-515-2704

pguffain@tfi.org

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