

# Current Insights - Legislative/Regulatory Update

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# Nurse Tanks

## Nurse Tank Inspection Program (SP-13554) Status:

- 1,252 locations registered;
- 22,708 inspection kits mailed;
- 15,630 results received;
- 395 failed tanks.



## Nurse Tanks (continued)

- DOT is combing the countryside and stopping by – unannounced in many cases – looking at compliance with SP-13554.
- TFI was notified of DOT inspections in November 2008 and in December DOT issued a *Nurse Tank Safety Advisory*.
- The most common problem found were tanks in service without the required data plate and not in the special permit program.



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## Nurse Tanks (continued)

- In some cases, managers admitted to knowing about the special permit, but taking no action to comply.
- In other cases, many facilities stated they were not aware of the special permit.
- Penalties for violations could range from \$15,000 to \$50,000, companies could be put out of service, and DOT could withdraw TFI's special permit.



## Nurse Tanks (continued)

- TFI has a petition pending at DOT for inspection of all nurse tanks similar to the requirements of the special permit (submitted to DOT Dec. 15, 2008).
- In addition to the three tests currently required by the special permit, in the petition TFI requests:
  - Welding by an R stamp provider;
  - New pressure test after welding;
  - Phase in of 20 percent of an owners fleet over 5 years;
  - Required tests by trained and experienced employee.



# Hours of Service

- For more than a decade, agriculture has had an exemption from the hours of service rules.
- The exemption is limited to deliveries within 100 miles and only during the planting and harvesting season.
- This year the Commercial Vehicle Safety Alliance (CVSA), whose members represent state enforcement personnel, issued a statement that would work to eliminate the exemption.



## Hours of Service (continued)

- The agricultural hours of service exemption is normally tied to surface transportation reauthorization (highway authorization).
- TFI first began working on the ag hours of service exemption in 1991 and was finally successful in securing it in 1995.
- Over the past several months, TFI, ARA and others have been working to protect the future of the exemption.



# Hours of Service (continued)

- Since the highway reauthorization appears to be heading for an 18 month extension, the threat to the exemption is temporarily delayed.
- Language in the exemption is vague when it comes to what falls under the exemption:
  - “...limited to an area within a 100 air mile radius of the source of the commodities or the distribution point for the farm supplies.”



# Hours of Service (continued)

- What does this mean?
- According to DOT – from the retail dealer facility directly to the farm.
- According to some delivering fertilizer – from the terminal to the retailer; from retail to retail.
- Who is right?



# Brakes on Nurse Tank Trailers

- Federal regulations – 49 CFR 393.42 require all trailers with a gross weight of 3,000 pounds or more to have brakes.
- Nurse tanks on trailers fully loaded weight approximately 9,000 pounds.
- State DOT officials are checking.
- Until 1988, states could adopt variances from federal DOT regulations and still receive Motor Carrier Safety Assistance Program funds (MCSAP).



# Brakes on Nurse Tank Trailers (continued)

- After 1988, states could not implement regulations that conflicted with DOT and still receive MCSAP funds.
- Some states have an exemption from brakes on implements of husbandry, but many do not.
- TFI is polling states through affiliated state and regional associations to determine the status of this issue in each state.
- Options are a 90-day short term waiver; a three-year pilot program; or a special permit.



# Rail Issues

- Rail ammonia continues to be the focus of attention.
- Indemnification clauses in contracts and tariffs for the railroads own negligence.
- Interim tank car standards issued by DOT.
- Continued work to be done on new tank car specifications.
- Legislation on Surface Transportation Board and rail reform.



# UAN Tanks

- TFI's voluntary guidelines –

*Aboveground Storage Tanks of Liquid Fertilizer  
Recommended Inspection Guidelines*



# Ammonium Nitrate Regulations

- Secure Handling of Ammonium Nitrate Act of 2007 – signed into law in Dec. 2007.
- Definition of ammonium nitrate – solid – 33 percent or greater.
- Mixtures of ammonium nitrate also likely to be regulated.
- DHS to develop and implement regulations to:
  - Register individuals who take possession of ammonium nitrate;



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# Ammonium Nitrate (continued)

- Register facilities that sell and transfer ammonium nitrate;
- Screen registrants through the terrorist screening database;
- Inspect and audit facilities;
- Establish record keeping requirements;
- Cooperative agreements or delegation is authorized to the State Departments of Agriculture.
- Advanced Notice of Proposed Rulemaking issued in October 2008.
- Notice of Proposed Rulemaking – Fall of 2009.



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THANK YOU!

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