

June 22, 2007

Bill Bond
Minnesota Crop Production Retailers
7500 Flying Cloud Drive, Suite 900
Eden Prairie, MN 55344

Re: *Discontinuation of the Minnesota Anhydrous Ammonia Tank Special Program*

Dear Mr. Bond:

On June 11, 2007 the Minnesota Department of Agriculture (MDA) received a written notice from the U.S. Department of Transportation (U.S. DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA). The notice stated PHMSA's denial of an appeal submitted by the MDA for the reconsideration of the special permit application which would have allowed the continued use of the Minnesota anhydrous ammonia tank special (MN NH3 Special) program as it applies to applicator/nurse tanks.

The MDA has made an extensive effort over the last several years to obtain Federal approval for the continued use of the MN NH3 Special program. Efforts were initiated in 2005 when a noncompliant notice was issued by the U.S. DOT's Federal Motor Carrier Safety Administration (FMCSA). In February 2006 MDA's submitted to PHMSA a special permit application requesting the continuation of the MN NH3 Special program. In April 2006 PHMSA issued an initial denial of MDA's special permit application. In May 2006 MDA responded by submitting to PHMSA an appeal for the reconsideration of the special permit application. Despite MDA's efforts and the acknowledged merits of the MN NH3 Special program PHMSA maintained their stance for a single national process (DOT-SP 13554) for determining the efficacy/continued use of non-nameplated applicator/nurse tanks.

The result of PHMSA's final ruling means that: (1) the MN NH3 Special program is no longer legal as it related to Federal DOT requirements for applicator/nurse tanks; and (2) Applicator/nurse tanks with the MN NH3 Special designation are no longer legal for use for anhydrous ammonia. Over the last several years the MDA has advised applicator/nurse tank owners/operators and their affiliates (i.e. MCPR) not to utilize the MN NH3 Special program until a final ruling was obtained.

Another outcome of PHMSA's final ruling is that the MDA is now compelled to issue an Order of Cease/Desist/Stop Use upon inspection of applicator/nurse tanks without a legible ASME nameplate or that are not in compliance with DOT-SP 13554. The Order will direct removal of all ammonia product and pressure from the tank(s) and be permanently taken out of service. In addition, the Minnesota DOT and State Patrol may be issuing Out of Service Orders, citations, etc. when encountering tanks that are noncompliant with U.S. DOT hazardous materials transportation regulations.

Owners/operators of applicator/nurse tanks with the MN NH3 Special designation are faced with the following compliance options: (1) to empty affected tanks and placed permanently out of service; or (2) become a party to the U.S. DOT Special Permit, DOT-SP 13554. Once a party to DOT-SP 13554 owners/operators may have affected tanks go through the prescribed process. Each applicator/nurse tank that successfully passes the prescribed process may be documented and marked as meeting the conditions of DOT-SP 13554, for the continued use for anhydrous ammonia. DOT-SP 13554 requires that the prescribed process be performed every 5 years thereafter.

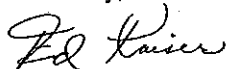
For more information about DOT-SP 13554 consult the following web sites: (1) Minnesota Crop Protection Retailers (MCPR) <http://www.mcpr-cca.org/>, refer to the Asmark Institute; (2) Minnesota Association of Cooperatives (MAC) <http://www.wfcmac.coop/index.html>; (3) Agribusiness Association of Iowa at <http://www.agribiz.org/>; (4) The Fertilizer Institute, <http://www.tfi.org/>, refer to the Nurse Tank Inspection Program; (5). PHMSA, Office of Hazardous Materials Safety, Special Permit, DOT SP-13554, http://hazmat.dot.gov/sp_app/special_permits/docs/13000/SP13554.pdf; and (6) FMCSA SAFER site, <http://safer.fmcsa.dot.gov/> refer to the Cargo Tank category to obtain database for DOT registered cargo tank inspection and testing facilities – select the desired state (i.e. Minnesota), any of the tests (external, internal, pressure, or thickness), and "Exemption" (bottom box in selection page) before clicking on the "Search For Records" selection button.

In retrospect, the MN NH3 Special program was a proactive measure taken by both industry and the MDA to deal with the large quantity of applicator/nurse tanks without a legible ASME nameplate. Prior to implementation of the MN NH3 Special program it was estimated that approximately one-third to one-half of all applicator/nurse tanks in Minnesota did not have legible ASME nameplate (i.e. sandblasted or missing nameplates). This amounted to around 5000-8000 applicator/nurse tanks. As of today all but approximately 1300 tanks under the MN NH3 Special designation have legible nameplates. The MN NH3 Special program has had a marked impact in reducing the number of applicator/nurse tanks that do not have legible nameplates.

It should be noted that PHMSA's denial does not apply to storage tanks. The Federal DOT does not have jurisdiction over storage systems/tanks. Due to this the MN NH3 Special program remains a viable compliance option for storage tanks. The MN NH3 Special process is required for anhydrous ammonia storage tanks without a legible ASME nameplate prior to future installation or relocation.

Hope this correspondence has provided clarification as it relates to the applicator/nurse tank nameplate issue. Contact me if you have questions.

Sincerely,



Ed Kaiser, Consultant
Inspection & Permitting Unit
Regulatory & Response Section
Pesticide & Fertilizer Management Division

cc: Greg Buzicky, Director, Pesticide & Fertilizer Management Division
Paul Liemandt, Assistant Director, Pesticide & Fertilizer Management Division
Michael Ritchie, Hazardous Material Specialist, Minnesota Department of Transportation
Tim Clay, Director of Environmental & Regulatory Services, MN Association of Cooperatives