

IFCA NEWS



ILLINOIS FERTILIZER & CHEMICAL ASSOCIATION

Our Mission Statement: *To assist and represent the crop production supply and service industry while promoting the sound stewardship and utilization of agricultural inputs.*

Fall 2010 Newsletter IFCA Chairman's Report by Terry Habrock

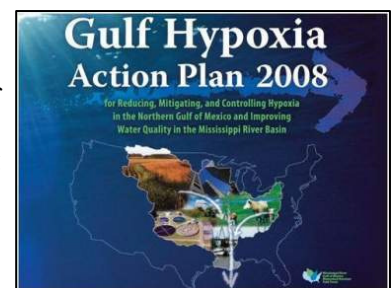
Greetings from southern Illinois.

As the leaves begin to change, I am reminded of why I enjoy living in the Midwest so much. As our fall season kicks into high gear so does our workload. Application of dry fertilizer products is in full swing. Most certainly, supply issues will be a concern and fall fertilization is very necessary for agriculture to succeed. However, our success is inherently tied to everyone being a good steward. As you will read below, agriculture's detractors are out there and the threat is real. Be assured, IFCA is engaged and being very proactive on this issue. I want to thank everyone who paid attention to the IFCA Alert on waiting until the soil temperatures reach 50 degrees before applying ammonia. The IFCA staff often takes phone calls from members and even government folks who report applications that are happening far too early, and many times a considerate phone call from IFCA to the responsible party about the ramifications of improper N application will result in tool bars being parked until the soil temperatures are appropriate. We're all in this together if we want to defend the future of fall applied nitrogen.

As this is an election year, we as voters have the final say in who manages our government. I urge each and every one of you to get out and vote. A non vote is an endorsement of current practices and endorses the status quo. Best wishes for a prosperous and safe fall season!

NUTRIENT STEWARDSHIP IS OUR NEXT BIG CHALLENGE

You may have heard that the state of Florida and the Chesapeake Bay area in New England are dealing with new nutrient standards. It's true, and it may be coming to Illinois if we don't step up our game on nutrient stewardship. Ten years ago the USEPA directed the states to set standards for nitrogen and phosphorus in streams. These are not drinking water standards, but aquatic standards, and the levels will be very low. The majority of states have resisted setting standards because the reality is that even if we applied no fertilizer at all, the standards will be unattainable. Municipal sanitary systems will be hard pressed to meet the standards and so will agricultural areas.



Frustrated because the states have been slow to move on this issue, activist groups are now suing to force the states to set standards. Lawsuits forced the adoption of nutrient standards in Florida and the Chesapeake and now the municipalities as well as agriculture in these areas will enter into a new regulatory environment where all nutrient uses and discharges will be subject to regulatory oversight. Illinois is the next target for such a lawsuit unless we seriously focus on ways to reduce nutrient losses. With tile drained farmland, it won't be easy. But the good news is that no one is really suggesting cutting fertilizer rates; rather they are asking agriculture to look at adopting new systems to increase nutrient efficiency and thus reduce losses. Examples would be to consider split applications of nitrogen, using nitrogen stabilizers for all forms of nitrogen and the placement of fertilizer. We encourage you to take a hard look at your customer's fertility management—do they have a nutrient management plan to defend their decisions? Ag retailers and CCAs will be called upon to provide the agronomic expertise to enhance nutrient efficiency. It starts with fall N and ensuring that we do not put on nitrogen until the soil temperatures fall to 50 degrees. We also encourage the use of a nitrification inhibitor for all fall applied N. Good agronomy practices and protecting water quality are becoming equally important. Watch for more information on this issue and IFCA's involvement in a statewide strategy on nutrient stewardship. Also check out the 4R nutrient (right rate, right time, right source, right place) stewardship program on our website.

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IFCA WELCOMES NEW MEMBERS

Justin Garzolini, Garzo Tire, Terre Haute, IN
Steve Scalf, Elburn Cooperative Seed Pros, Newark, IL
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Roy Trumper, ATS Environmental, Sparta, NJ
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Derek Hardy, Potash Corp, Northbrook, IL
Loran McDonald, Potash Corp, Northbrook, IL
Jacob Cottrill, Helena Chemical, Saint Louis, MO
Greg Campbell, Elburn Cooperative, Steward, IL

Ammonia Safety Brochures Depicts Actual Incidents

IFCA has developed a "Guide to Anhydrous Ammonia Safety: Preventing Ammonia Accidents during Transportation and Application." The brochure features actual accidents that occurred in the Spring of 2010 and advice on how they could have been prevented. IFCA has plenty of brochures available for your customers and employees to review to help reduce accidents. If you would like copies of the brochure, please contact the IFCA office. The brochures can also be downloaded from our website.

Online Ammonia Training Option

If you hire employees to handle or work around NH₃ but they did not make it to the 2010 Fall NH₃ training classes, online training is available on the IFCA website. The cost is \$40 and the certificate is good for 90 days after completing the training. The online training will allow employees to work around ammonia through the fall season until they can attend an approved training course.

IFCA CALENDAR

2010 Ag Retailers Association Conference & Exposition

November 30-December 2, 2010 @ Palm Springs, CA

Ag Masters Conference

December 2-3, 2010 @ The I-Hotel, Champaign

Illinois CCA Convention

December 16 @ the Crowne Plaza, Springfield

IFCA Annual Convention: January 18-20, 2011, Peoria Civic Center

Last Chance for "Basics in Applied Agronomy" Course! This is an on-line course offered each Monday night starting October 25 and ending January 24. It is designed to provide a comprehensive background in soil and water, nutrient, pest and crop management and is a great prep course for the CCA program. The cost is \$375 and you can contact Heather Miller at: hmiller1@illinois.edu for more information. Starting in the Spring Semester, this course will be replaced by "Principles of Crop Advising" and will be taught by research specialists including Mike Gray, Emerson Nafziger, Fabian Fernandez, Aaron Hager, Carl Bradley, Terry Niblack and Howard Brown.

Things That Impact Your Business But Can Get Overlooked

The following is an attempt to review some of the finer points of rules, regulations and business quirks that IFCA has informed you about from time to time, but that you may have forgotten because well, you have a business to run!

Taxes

Let us preface this section by reminding you that **ILLINOIS IS BROKE**. As a result, the state is attempting to collect taxes every chance possible and cracking down on people taking liberties with the exemptions for agricultural equipment.

1. **DO NOT** pay state sales tax on your implements of husbandry, they are exempt! The local Secretary of State office will often ask you if you've remitted your sales tax on a vehicle or implement before they will give you a title or sell you plates. But the SOS is not the Dept of Revenue! Don't let them convince you that you owe the tax. Nurse tanks, fertilizer spreader buggies and self-propelled floaters are exempt from sales tax. Just say NO! The farm machinery & equipment sales tax exemptions are listed at www.ifca.com under "Regulations" and then "Taxes." It's a good idea to keep the exemption language handy when you go to your local SOS office. If you do end up paying the tax you can get a refund but it can take months. Stand your ground at the SOS office; if they argue with you leave and call IFCA.
2. All Terrain Vehicles are exempt from sales tax but **ONLY** if they are used primarily for production agriculture. Using them to hunt is a big NO NO. The IL Dept of Revenue is catching a lot of people who have claimed the exemption but can't explain the duck feathers and deer hair caught in the fenders. Ag retailers can make a good case for claiming the exemption if you keep the ATV at your facility and equip it with GPS and soil sampling equipment. That is why we passed this legislation to begin with. Help us protect it by claiming the exemption only when it's legit.
3. While we're on the subject of the Dept of Revenue, it's a good idea to keep on file a signed statement from your farmer customers that they are using the chemicals, seed, feed and fertilizer they buy from you exclusively in production agriculture. This is especially true for hobby farmers who may be using products for other than growing a commodity. IFCA has a sample certification form on our website, under "Regulations" and "Taxes" that you can download and utilize. Ag inputs are exempt, but there are some IDOR inspectors that ask to see this signed statement in your files.

Transportation

1. You are required to know the DOT rules and regulations as good as an enforcement officer. (Yes we realize how ridiculous this sounds.) You should bookmark <http://www.phmsa.dot.gov/hazmat/regs> for the hazmat regulations and <http://www.fmcsa.dot.gov> for the motor carrier regulations. Be familiar with these sites so that when DOT comes knocking, you can show them how these truly are your "favorites."
2. Your floaters and sprayers are only considered "implements of husbandry" when they are less than 36,000 lbs, less than 12 feet wide, going less than 30 mph and operating within 50 miles of your facility. Anything over that and they are a commercial motor vehicle and you would need a CD, vehicle inspections, etc. The best thing you can tell your operators is this: **Don't drive over 30 mph through a town**. If you don't irritate a county deputy or a town cop by roaring past them with your flotation tires rumbling, you won't get stopped and you'll avoid LOTS of tickets, hassles and possibly a trip to the county courthouse. Going 30 mph will still get you there on time! Trust us on this one.

Pesticides & Fertilizer

1. You can check the status of your own or a customer's pesticide license by going to www.agr.state.il.us and then clicking on "Environmental Issues" then "Pesticide Use and Regulation." Did you know the fertilizer tonnage reports are also available on the Department of Ag website? Go to "Programs and Services" then "Fertilizer."
2. When you custom apply a restricted use pesticide, you are required by USDA to send a copy of the pesticide application record to your farmer-customer within 30 days. However, you can relieve yourself of mailing the record to him by getting a signed statement from the farmer that gives you permission to maintain the application records at your office. Save yourself a stamp. A copy of this form is available on the IFCA website under "Regulations" and "Pesticides."



Important Industry Issues



IFCA Member Settles With USEPA Over RMP Violations

In 2007 an anhydrous ammonia release at an IFCA member facility prompted an RMP audit from Region 5 USEPA representatives. Although the company contacted the proper authorities in a timely manner and the release was not their fault, it made headlines on some of the Chicago news stations. After the RMP audit, USEPA cited the company for several minor paperwork violations resulting in a proposed \$60,000 fine. IFCA's Kevin Runkle went with the ag retailer to a meeting with Region 5 officials in Chicago to dispute a majority of the violations. Three years and several conference calls later USEPA finally settled the fine with the ag retailer for \$1,500. USEPA is currently conducting RMP audits at some Illinois ag retail facilities. IFCA offers an RMP audit program to help our members comply with the RMP requirements. If you would like an RMP audit, please contact Kevin at the IFCA office. If you get a penalty from a state or federal agency you feel is unjust, please call IFCA for assistance, we can help!



Industry Secures 2 Year Extension for Hours of Service Exception

Each summer, IFCA participates in the Agribusiness Fly-In, in which ag retailers from across the country meet in Washington D.C. to visit with members of Congress and the regulatory agencies about issues that impact the ag input industry. IFCA members were well represented by the group in this picture, who set up a personal visit with Anne Ferro, the Administrator of the Federal Motor Carrier Safety Administration to discuss the importance of the Hours of Service exception for movements of fertilizer from the terminals to retail locations. During the meeting we shared with Ms. Ferro the amounts of product that we move each year to supply Illinois farmers with nutrients and the critical need for this exception.

Jean Payne, Jeff Eggleston (Hintzsche Fertilizer), Bill Romshek (Heritage FS), Rick Whalen (Specialized Transport) and Keith Fricke (Sunrise Ag Service) outside the FMCSA headquarters in Washington D.C. just prior to meeting with the FMCSA Administrator.

We urged FMCSA to restore the Hours of Service exception not only for anhydrous ammonia, but also for liquid and dry fertilizers. In late September, FMCSA issued a 2 year extension of the Hours of Service exception for the transport of anhydrous ammonia between terminals and retail sites, within a 100 mile radius. The HOS exception was never in jeopardy for retail to farm transportation for all ag inputs. We are pleased that FMCSA made this ruling prior to the beginning of the fall ammonia season, but will continue to make the case for it to be extended to all forms of fertilizer, and also extended permanently, which is what we believe Congress intended. Thanks to our national groups The Fertilizer Institute and Ag Retailers Association who led the daily efforts in Washington D.C. on this issue and to all the IFCA members who submitted letters to FMCSA on this issue. We also had strong bi-partisan support from our Illinois Congressmen including Tim Johnson, Aaron Schock, John Shimkus, Don Manzullo, Jerry Costello, Debbie Halvorson and Phil Hare who all sent letters to FMCSA supporting IFCA and the need for the HOS exception. The final rule is posted on our website.

Pin-Holes and Problems with Some Ammonia Nurse Tanks

The Iowa Department of Agriculture and Land Stewardship (IDALS) conducted inspections of NH3 nurse tanks located at commercial ag retail facilities and has found tanks from American Welding & Tank that have pin-hole leaks. IDALS sent a letter to all anhydrous dealers in Iowa to share their concerns about the tanks, and the Iowa Secretary of Agriculture is encouraging farmers to also check any anhydrous ammonia tanks they have on their farm for pin-hole leaks or faulty welds that could compromise the integrity of the tank. Although none of the tanks found to have pin-hole leaks have had a catastrophic failure, leaking tanks are a serious health threat and it is important for retailers to exercise caution and work with their local tank distributor on any issues. IDALS issued "stop use" orders on fifteen tanks found to be leaking during its annual inspection process. The USDOT is also responsible for regulation of nurse tanks and have been informed of the Department's findings as well.



Regulatory Update

Indiana Adopts Fertilizer Certification Legislation

On August 16, 2010 Indiana adopted new regulations governing the handling, transportation, application and distribution of fertilizers. Indiana Administrative Code 355, IAC, 7 was added to ensure the safe and effective use and distribution of fertilizers. The rules state that a person at a company who oversees the application of commercial fertilizer must take and pass a test in order to distribute (offer for sale, sell, exchange, barter, supply or offer to supply) fertilizer material. Distributors of inorganic fertilizer to retail facilities are exempt from this regulation. Companies who already have an Indiana Business License must obtain an endorsement on their license from the Office of Indiana State Chemist by taking and passing an exam administered by the state chemist. Someone at the company must then maintain 3 hours of continuing education over a five year period to maintain the company's fertilizer certification. This rule will apply to Illinois retailers who plan to apply fertilizer in Indiana. Farmers are only exempt if they are applying fertilizer to their own land. Up to 10 employees can work applying fertilizer under one company certification. The rules goes into effect January 2012.

SPCC Update—Extension of Compliance Date

EPA proposed on August 3, 2010 to amend the date by which certain facilities must prepare or amend their Spill Prevention, Control and Countermeasure (SPCC) Plans. The proposed date, November 10, 2011, is one year from the current SPCC compliance date of November 10, 2010. EPA said an extension is appropriate due to ongoing uncertainty surrounding EPA's regulatory review and year long delay of final SPCC amendments that were first published in December 2008, but not made effective until January 2010. EPA is proposing to extend the compliance dates to provide owners or operators of facilities the opportunity to fully understand the regulatory amendments offered by revisions and to allow these facilities additional time to make any changes necessary to comply with the revised SPCC requirements. If the proposed rule is finalized, it will be the seventh deadline extension of the final SPCC rule since its original effective date on August 16, 2002.

EPA Pesticide Container & Containment Regulations

Now referred to by USEPA as Portable Refillable Containers (PRC's) mini-bulk containers must meet the following criteria no later than August 16, 2011. PRC's must meet USDOT design, construction and marking requirements. One-way valves or tamper evident devices are required on PRC's. They must have a unique method of identification such as a serial number or other ID code. Stationary bulk tanks must meet USEPA requirements by August 16, 2011. Stationary bulk pesticide storage tanks can not have external sight gauges and they must have vents that limit evaporation as well as a lockable inlet/outlet valve. Storage tanks must also be anchored or elevated or contain enough product to counteract buoyancy.

After Aug 16, 2011, PRC's must be washed between uses unless the tamper evident device and/or one-way valve are intact and the tank is filled with the same product. PRC's must be on an approved list from the registrant and the EPA establishment number and net contents must be on the product label affixed to the tank. You must also keep records each time you inspect and fill a PRC.

Please pay close attention to your 2011 Pesticide Repackaging Agreements, which will contain information on the types of tanks that will be acceptable for continued use under the new USEPA rules. IFCA is developing a compliance brochure to help you navigate through this somewhat confusing new regulation and we plan to have it to you this winter.

NTIP Addendum

Recently, IFCA met with USDOT Pipeline & Hazardous Materials Safety Administration (PHMSA) officials to get a better understanding of the addendum required to be added to inspection forms for the Nurse Tank Inspection Program (NTIP). IFCA has developed a memo that explains how to fill out the addendum and comply with this requirement. It is posted on the IFCA website. If you have any questions about the addendum, please contact Jean Payne or Kevin Runkle. For your convenience, the website features a copy of the addendum which should be attached to each inspection form for each NH3 nurse tank enrolled in the NTIP. **You must complete and file the addendum before February 3, 2011 or you could be subject to a penalty from USDOT.**

From the President's Desk by Jean Payne

I saw a hand-made sign in a yard today that read "Vote November 2 or Turn in Your Citizenship." Some may think the statement is dramatic, but I think it captures the sense of many people who are very concerned about the direction we are headed with over-spending, over-regulation and the notion that government is the answer to all of our problems. You can hardly attend any event, be it business, family, church, etc. without someone bringing up the current politics of D.C. and everyone chiming in their concerns.

I give a lot of presentations to farm and civic groups about our industry and when I discuss the regulatory challenges in our industry, I get swarmed afterwards with people asking me "what are we going to do!?" and expressing some pretty serious concerns about the future of the USA. To give you another example of how regulations have gotten out of control in the past 2 years, I was at the TFI annual meeting and the speaker asked the audience "Who can name the USEPA Administrator?" Nearly everyone raised their hand and we all knew it was Lisa Jackson. He then asked "Who can name the Secretary of Commerce?" Not a single person raised their hand, and these were all very astute business people! Like the USEPA, the Secretary of Commerce is a Cabinet Position. Their mission statement is: *"To help make American businesses more innovative at home and more competitive abroad."* Shouldn't this be just as important and get just as much attention as the USEPA? Yes, dang it! Politicians talk about jobs but unfortunately it gets only lip service while the USEPA is actively putting out proposed rules and enacting new requirements for NPDES permits, carbon dioxide, spray drift, dust and all kinds of initiatives that will strangle businesses and kill job growth, while Congress is doing next to nothing to stop it.

I appeal to all IFCA members, please vote on November 2. Pay no attention to the D, R or I next to someone's name. Instead ask yourself, "Does this person represent my values with regard to the economy, the regulatory climate, personal responsibility and accountability? We are at the tipping point at both the state and federal level. We can succumb to a future of entitlement, debt and choking regulations or we can choose to fight our way out of it. The fight begins with your vote!

By the way, the US Secretary of Commerce is Gary Locke. I admit when I looked it up, it wasn't even a name that rang a bell. It probably doesn't ring a bell with you either. Enough said. Let's try hard to get this fixed.

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