



# Inputs

## *Executive Director's Report*

Hello MCPR members!

As I write this, the legislature is squabbling over Governor Pawlenty's ultimatum to cooperate with him or he will use his line item veto authority to solve the Minnesota projected biennial deficit without any tax increases... and without the legislature! The legislature thought, mistakenly, that they could use the threat of a state shutdown when the current budget which authorizes all state spending ends on June 30. They successfully did this in recent Minnesota history which forced the Gov to accept a cigarette tax increase to solve the last budget crisis. He called it a "user fee" rather than a "tax" increase. This time, the Governor will use his line item veto authority to do an "end run" around his loyal opposition at the Capitol which will be interesting to follow. Will the necessary cuts the Governor makes end up hurting many folks and the programs that people must depend on? Or, will Minnesotans not notice the impacts of the cuts so that the legislative leaders crying "foul" and "it will hurt too much" end up losing their credibility? Maybe folks will just yawn and turn their back on these state leaders who have tried to create so much fear about the role of state government and the terrible impact the cuts will have on us. Or, will the cuts end up hurting many Minnesotans and as a result the Governor will lose support as his image changes to that of a leader who is insensitive and stubborn? Stay tuned...you may see the beginning of a successful Presidential campaign... or the end of Tim Pawlenty's fast rising political star. High stakes political poker, to say the least!

The Environmental Respect Awards (ERA) are the agricultural industry's highest recognition for environmental stewardship among U.S. agricultural retailers. A panel of industry experts gathers each year to recognize achievement in environmental stewardship, professional excellence, and community involvement. State winners are chosen based on evidence of excellence in site design, in-plant storage and handling procedures, emergency preparedness and response, proper application, and leadership in safety and stewardship among customers and employees. Once again we congratulate a retailer in Minnesota who has been recognized. Join me in extending a hearty "congratulations for a job well did!" to Bird Island Soil Service. Brad Aaseth and his team at Bird Island Soil Service stepped up to the plate and showed their environmental respect. Brad, I hope you do well in the national competition. Incidentally, the National winner will be announced in July in a ceremony in Washington, DC.



### Inside this Issue

Executive Director's Report	1
Anhydrous Ammonia Nurse tank Update	2
Container Recycling Info	2
Reguletter	Insert
Summer Outing Info	Insert
Capitol Update	3/Insert
Craig's View	4

Unfortunately, I also have some bad news. MCPR received many, many calls and emails about the USDOT Nurse Tank inspection teams which recently moved through the state. In fact, you will find information on page 2 that Jessi put together which summarizes some of the misunderstandings found throughout our state. I recently talked to a public official who provided an informal assessment of their findings. If you grade retailers equivalent to a high school letter grade, according to this source approximately 20 % would receive an "A", about 30% would get a "C", BUT...approximately 50% of us would get an "F". The nurse tank inspection program was national in scope. Unfortunately, other states also have compliance problems related to their nurse tanks. We have some work to do, MCPR members.

Until next time,

Bill Bond

## *Anhydrous Ammonia Nurse Tank Update*

Recently many MCPR members were involved in a nurse tank inspection that was conducted by the Pipeline and Hazardous Materials Safety Administration (PHMSA), MNDOT and MN State Patrol (Commercial Vehicle Division). MCPR would like to clear up some confusion that members have regarding the nurse tanks and the DOT –SP 13554. Below is information pertaining to some common questions we have recently received:

1. Make sure you can read the required information on the nurse tanks name plate. Enter <http://mcpr-cca.org/downloads/Safety%20Advisory%20Letter-%20Nurse%20Tanks%20FINAL.pdf> into your web browser to view the letter from the PHMSA regarding ASME name plate requirements. If there is any part of the required information that you cannot read, you will need to immediately empty and pressure relieve the tank (zero product/pressure service status), enter the tank into the DOT-SP 13554 special permit process (see 2 below) or have a new ID plate attached (see 3 below). You must take IMMEDIATE ACTION...if a government agency finds a nurse tank out of compliance they will put it immediately out of service.
2. If you would like to continue using nurse tanks that have illegible or unreadable ID plates you must comply with all of the requirements of USDOT Special Permit 13554. The following is an outline of the basic requirements of 13554:
  - A. Tanks must be tested and inspected as outlined in DOT SP13554 by a person registered with USDOT as a cargo tank Registered Inspector;
  - B. each tank must be marked with a unique owners identification number;
  - C. tanks must be used exclusively for agricultural purposes;
  - D. tanks operated under SP13554 must be marked DOT-SP13554 and be durably marked with the date and type of test or inspection performed;
  - E. employees operating Special Permit tanks must be trained on the requirements and conditions of the special permit;
  - F. a copy of the test and inspection results and the special permit must be maintained at the facility.
  - G. You will need to register your facility to become party to the DOT-SP 13554. This can be done by entering: <http://www.nurse-tank.org/> into your web browser and then clicking on the 2nd paragraph down “Register your location”.
  - H. You will also need to find a registered cargo tank (CT) inspector. A list of registered CT Inspection Facilities can be accessed by entering: [http://mcmis.volpe.dot.gov/mcs150t/pkg\\_ct\\_public.prc\\_ct\\_public\\_search](http://mcmis.volpe.dot.gov/mcs150t/pkg_ct_public.prc_ct_public_search) into your web browser.
  - I. Your nurse tanks that are in the program must then be tested every 5 years (external visual, pressure, and thickness tested). The proper documentation must also be kept on file and the nurse tank properly identified as participating in this program (check with the CT inspector).
3. You can also attach a new ID plate to the nurse tank, HOWEVER this is a costly and time consuming process. Here is a summary of the information we have gathered from MN Department of Labor & Industry
  - A. Requests for permission to replace nameplates must be made to the jurisdiction in which the pressure-retaining item is installed (i.e. Minnesota Department of Agriculture). An application must be made on the Replacement of Stamped Data (Form NB-136). Proof of the original stamping and/or other such data as is available should be furnished with the request.
  - B. If approved by the jurisdiction, the replacement of the nameplate must be witnessed by a National Board Commissioned Inspector and shall be identical to the original stamping.
  - C. Form NB-136 must be filed with the jurisdiction or the National Board by the owner or user together with a facsimile or photo of the nameplate as applied and must also bear the signature of the National Board Commissioned Inspector who witnessed the replacement.
  - D. You will need to contact the original manufacturer for a new nameplate. We have heard that ID plates can cost around \$400. Many manufacturers will not issue a new nameplate due to liability.
4. “MN Special” nurse tanks must immediately be emptied and pressure relieved (zero product/pressure service status) and must successfully go through the USDOT SP 13554 process before being placed back into ammonia service. The “MN Special” nurse tank registration program does NOT meet the Federal requirement and therefore is not legal for ammonia service. If you are still using your nurse tanks under the MN Special they are out of compliance federal and state regulations.
5. Drivers hauling anhydrous ammonia nurse tanks must have a CDL with a hazardous materials and tanker endorsement. The only exception to this are drivers using the 180-day Restricted Seasonal CDL. Drivers with a Restricted Seasonal CDL do not need to get a hazmat or tanker endorsement, but are restricted to operating class B and C vehicles or combinations only. All drivers hauling nurse tanks must be fully qualified, including having a current Medical Certificate (health card), and must be at least 18 years old if operating exclusively in Minnesota, or 21 years old if operating interstate. All persons hauling nurse tanks are hazmat employees, and must be hazmat trained, tested, and certified by their employer.

## *2009 Container Recycling Program*

Information for Container Recycling options for 2009 can be found on the homepage of the MCPR website: [www.mcpr-cca.org](http://www.mcpr-cca.org).

## Capitol Update

The regular legislative session ended without any agreements. In contrast to the Legislative log jam, Rep Al Juhnke and Senator Jim Vickerman provided bipartisan leadership to pass the agriculture and veterans affairs budget bill, which improved the Governor's recommendations related to pesticide and fertilizer fees. While the Governor line item vetoed a couple of funding items, nothing related to MCPR member issues was vetoed so you can count on the changes as follows:

The fertilizer tonnage fee payment responsibility changed from the person distributing the fertilizer into the state to the last seller (i.e. retailer) who sells to the end user (i.e. the farmer). The exception to this will be the licensed custom applicator. The retailer or other person performing this sale will be required to file an annual report instead of the current twice a year report, and must remit the tonnage fees to the MDA by July 31 of each year. MCPR supported this proposal as this system may "level the playing field" by clarifying who pays.

In addition, the fertilizer fee was increased from the current \$.30/ton to \$.70/ton. The additional \$.40/ton was projected to raise \$880,000 annually. The money will be used to fund the Agriculture Fertilizer Research and Education Council (AFREC). MCPR has supported funding the AFREC from various sources including the fertilizer tonnage fee increase. The check off idea which would have allowed a farmer to request a refund was not included in the bill. MCPR has two representatives on this council, Mike Minnehan and Bob Shoper. The increasingly important modern production ag fertilizer research is assured going forward at the direction of a council comprised exclusively of the crop input industry, ag retailers and farmers. This is a major win for MCPR.

On the pesticide side, a license will be required for persons distributing agricultural pesticides in or into Minnesota. Agricultural pesticides are those products with the "Worker Protection Standard / Ag Use Box" on the label. This initiative would also require those persons' to keep records and report on their gross sales of agricultural pesticides in and into Minnesota. If a person already is licensed as Minnesota Pesticide Dealer, no additional licensing would be required; however those Dealers selling Agricultural Pesticides would also need to report on those sales and pay the MDA a gross sales fee once a year. MCPR supported this idea as it may allow for a more level playing field by capturing the sales of those out of state suppliers not now reporting to the MDA via the product registrants. This proposal was refined by the MDA through meetings with MCPR and the crop input industry

Another proposal would allow the MDA to use dedicated Agriculture Chemical Response and Reimbursement Account (ACRRA) funds to pay salary and fringe benefits for direct ACRRA-related MDA Incident Response staff activities. The MDA justified this additional expenditure out of the ACRRA fund, by stating that staff resources are reduced from past levels at this time due to funding constraints and are the single most important factor in limiting progress on cleanup of agricultural chemical contamination sites and their subsequent reimbursement of costs incurred from the ACRRA. MCPR stated concern about this dilution of the ACRRA ground water clean up. However, in the compromise which was necessary to move the bill forward, this item was added onto the bill and provides \$225,000 annually to the MDA from ACRRA, in addition to the existing appropriation of \$225,000 annually for ACRRA Board and its staff administrative costs. The bill also collects an additional \$50 surcharge on the registration of each pesticide product from the chemical companies - this should raise approximately \$600,000 (12,000 products x \$50) and the funds go into an account dedicated to paying for local waste pesticide collection programs. For such support it requires the county to have a waste pesticide collection program cooperative agreement with MDA.

You may recall that MCPR reported that the Governor recommended an increase in the base pesticide registration fee from 4/10ths of 1% (.004) to 6/10ths of 1% (.006) and also recommended an increase in the minimum product registration fee for non-agricultural pesticides by \$100 from \$250 to \$350. The MDA testified in favor of this proposal by stating that the pesticide fee rates have not been increased since 1991. This proposal came as no surprise because MCPR has been advising members since last year that they should expect increases in pesticide fees, and that was prior to the Minnesota budget crisis. The ag pesticide fee increase proposal was substantial so MCPR opposed it. In addition, the Governor also recommended creating a dedicated Non-Agricultural Waste Pesticide Account (NAWPA) funded by a product registration surcharge imposed on all non-agricultural pesticides. This surcharge would have been an additional 6/10ths of 1% (.006) of product sales. These products are identified as any pesticide that does not have agricultural worker protection requirements on the product label (the Ag Use Box) and will be considered a non-agricultural pesticide and subject to the NAWPA surcharge. However, MCPR worked with the MDA and ag coalition to change the bill to delete the Governor's proposal and make a better alternative for MCPR members and our customers as follows and as described above:

### Pesticide Registration Fees, Collections, and Licensing Dealers Details:

- Shifts responsibility for payment of pesticide gross sales fees for agricultural pesticides from the company that registers the pesticide to the retailer (last point of sale).
- Requires both in-state and out-of-state retailers of agricultural pesticides to be licensed and keep records of sales.
- This should make it more difficult to sell products into Minnesota without paying the gross sales fees, which is a concern to pesticide retailers in MN.
- Collecting sales fees at the retailer is new and not conducted in any other state. Comfort language from the MDA allows a slight increase in the pesticide fee if the net proceeds fall below the projections. This provision is allowed for just a couple of years, as this new collection process is started.
- The bill also removes the requirement for retailers to submit Restricted Use Pesticide sales records annually but maintains the requirement to keep records and to provide those records to the MDA upon request.
- The bill will increase the "base" (minimum) pesticide product registration fee from \$250 to \$350 per product - this should raise approximately \$1,200,000 (12,000 products x \$100).
- It will also increase the fee on gross sales from 0.4% to: 0.55% for "agricultural pesticides"; and to 0.5% on sales exceeding the base fee

*(continued on page 1 of Reguletter)*



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## *Craig's View*

MCPR members,

On Wednesday, July 8, 2009 I will be hosting at my Central Valley Coop facility in Blooming Prairie, a kick off program to announce the American Agronomic Stewardship Alliance (AASA) program for Minnesota this year. The American Agronomic Stewardship Alliance (AASA) is a not-for-profit organization that has taken the lead in developing a stewardship inspection and accreditation program for agricultural retail facilities that store bulk, mini-bulk and packaged products. The inspection program for bulk pesticide facilities will occur this year in Minnesota. In addition, inspections will be held in Wisconsin, Illinois and states on the east coast. This program is an industry initiative (rather than a government program) designed to enhance stewardship and increase efficiency. The program uses a single checklist and schedule for inspecting agricultural retail facilities which replaces the duplicative bulk inspections conducted by manufacturers for the past several years. Everyone benefits. Retailers' facilities are inspected without a charge and more efficiently. AASA conducts the inspection with resulting data available on a fee basis to all manufacturers and distributors. The manufacturer and distributor AASA members do not pay for inspection data for their own locations. Release of inspection data is confidential and limited to those locations where manufacturers and distributors have a bulk presence and for stewardship purposes only. As in the past, manufacturers and distributors who have or plan to have a bulk presence at a facility will use the inspection data as a tool to determine where crop protection products can be stored safely. To see the checklist that AASA inspectors will utilize as well as information on new USEPA regulations that impact all bulk pesticide facilities, go to the AASA website at [www.aginspect.org](http://www.aginspect.org).

We will see you at the MCPR Summer Golf, Clay Shoot, and Motorcycle ride this summer...be safe!

Craig Maurer, MCPR Board Chairman