



Volume 61

December 1, 2008

Seasons Greetings!

As we enter into the holiday season, all of us at the Asmark Institute would like to wish you a Merry Christmas and a safe and prosperous New Year. We appreciate your business and look forward to working with you as we enter the new year!

Spotlight: Website Welcomes 100,000th Visitor

An exciting milestone was reached this past week when **Mike Schitter**, Manager of Crop Production Services in Jasper, Indiana logged onto www.asmark.org and was welcomed as visitor number 100,000. Mike logged onto the website at 12:11 p.m. on Wednesday, November 26th to order a couple of items from the online catalog. Mike will have been at the Jasper location for 40 years when January 2009 rolls around. He has also been a client of the Asmark Institute since 1992. Unlike other websites that count the number of pages accessed to run up the numbers, our website counts the number of real people that log onto our site. Each person that logs onto the website is counted as one visitor for the entire day, regardless of how many times they log on or the number of pages accessed. For being lucky visitor number 100,000, Mike will receive an Asmark Institute Computer bag filled with special gift items. Congratulations Mike!

U.S. EPA Publishes Final SPCC Rule - Retailers Benefit

On November 20, 2008, the Environmental Protection Agency (EPA) signed the final rule concerning Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure Plan (SPCC) Requirements. EPA's recent actions reforming the SPCC rule contains provisions that will benefit retailers and other small businesses. The Office of Advocacy of the U.S. Small Business Administration released a statement saying they were encouraged that the EPA listened to small businesses and included those provisions in the reformed rule. SBA's "Office of Advocacy worked for years with EPA to get the SPCC rule right for small business," said **Shawne McGibbon**, acting Chief Counsel for Advocacy.

Facilities with more than 10,000 gallons of oil products should have already had a SPCC plan prepared by a professional engineer. The recent amendments do not remove any regulatory requirement for owners or operators of facilities in operation before August 16, 2002, to develop, implement and maintain a SPCC Plan in accordance with the SPCC regulations then in effect. Such facilities continue to be required to maintain their plans during the interim until the applicable date for revising and implementing their plans under the new amendments.

Basically, the final rule benefits retailers and other small businesses that possess 10,000 gallons or less of oil products at their facility. The final outcome has been a tiered approach to compliance based on the size of the facility. Some of the friendlier aspects of the final rule include:

- Streamlining requirements and allowing the use of a SPCC plan template for facilities known as "Tier 1" qualified facilities, further reducing the need for plans prepared and stamped by Professional

Engineers. Facilities with no individual oil storage container with a capacity greater than 5,000 gallons and an aggregate total of not more than 10,000 gallons may qualify for Tier 1 status.

- Retention of the self-certification feature for small businesses, including farms with an individual oil storage container with a capacity of greater than 5,000 gallons, and an aggregate total of not more than 10,000 gallons.
- Farms are specifically defined and regulated.
- Exemption of pesticide application equipment and related mix containers that may currently be subject to the SPCC rule when crop oil or adjuvant oil are added to formulations.
- Exemption for farms from loading rack requirements.
- Clarification that a nurse tank used for fuel is considered a mobile refueler, and like other types of mobile refuelers, is exempt from the sized secondary containment requirements.
- By Court's Order, requires EPA to vacate their expanded definition of "navigable waters" as promulgated in 2002, and return to the original definition published in 1973. The SPCC rule will use the 1973 regulatory definition of "navigable waters" originally published in the *Federal Register* on Dec. 11, 1973. This definition of "navigable waters" applies only to the SPCC rule (and not other Clean Water Act regulations that reference the term) and reads as follows: The term "navigable waters" of the United States means "navigable waters" as defined in section 502(7) of the FWPCA, and includes:
 - All navigable waters of the United States, as defined in judicial decisions prior to the passage of the 1972 Amendments of the Federal Water Pollution Control Act (FWPCA) (Pub. L. 92-500) also known as the Clean Water Act (CWA), and tributaries of such waters as;
 - Interstate waters;
 - Intrastate lakes, rivers and streams, which are utilized by interstate travelers for recreational or other purposes; and
 - Intrastate lakes, rivers and streams from which fish or shellfish are taken and sold in interstate commerce.

The Asmark Institute was asked to partner with The Fertilizer Institute in December 2006 to develop a state-of-the-art web-based tool to help facilities comply with the SPCC requirements. The Asmark Institute has continued to work with The Fertilizer Institute (TFI) and EPA to develop a web-based program, entitled **mySPCC**. EPA has conducted a preliminary review of **mySPCC**. Asmark, TFI and EPA will be meeting to finalize this tool in the near future, and it is believed that EPA will support the program much like the **myRMP** program.

The new web-based tool **mySPCC** has been built with the same standard of quality and user friendliness as the recent myRMP Suite of Retail Guidance Materials. Programming for the self-certification SPCC plan (for use with a tank greater than 5,000 gallons) was completed in the fall of 2007. Programming for the second new tool that helps a user electronically complete the streamlined template (for use at facilities with no tank greater than 5,000 gallons) was completed the fall of 2008 and is awaiting release. Combined, these two new web-based tools will be called **mySPCC Suite of Retail Guidance Materials**. The new mySPCC Suite is expected to be introduced in the first quarter of 2009, pending review and approval.

Additional information, including the rules and fact sheets, are available by [clicking here](#). [Click here](#) to access the signed pre-publication copy of the final rule.

Nurse Tank Inspection Program (NTIP) Update

As of the week ending November 21st, there have been 1,133 locations request to be covered by DOT SP-13554. More than 19,000 kits have been shipped with 13,484 inspections recorded on the website. A total of 369 nurse tanks have failed to pass the testing for the reasons of visual (209), thickness (123) or pressure (37). Illinois is the state that has recorded the most nurse tank inspections. A rundown by state of the nurse tanks that have been inspected (100 or more) through the NTIP program:

- . Illinois (6,549)
- . Indiana (1,563)
- . Ohio (1,182)
- . Iowa (1,136)
- . Kansas (852)
- . Kentucky (705)
- . Missouri (343)
- . Minnesota (188)
- . Tennessee (149)
- . Maryland (105)

Attention: Nurse Tank Owners & Operators

The following letter was issued by **Ford West**, President of The Fertilizer Institute (TFI) to their affiliates nationwide on November 20, 2008. If you own or operate nurse tanks used to transport anhydrous ammonia, you should review this letter. If your nurse tanks have missing or illegible ASME data plates, you should seriously consider taking immediate action.

Washington, D.C. (November 20, 2008) Last week the Department of Transportation (DOT), Office of Hazardous Materials Enforcement, notified The Fertilizer Institute (TFI) of recent nurse tank inspections in several states. Unfortunately, a variety of serious issues were discovered. While in Illinois on DOT business this week, DOT inspectors agreed to meet with several industry representatives at the request of TFI. The meeting was held at the office of the Illinois Fertilizer and Chemical Association on November 18, 2008.

At the meeting, DOT reported that the inspections were the result of complaints from citizens and industry in the states of Nebraska, Missouri, Kansas, Indiana and Iowa. The DOT inspections were unannounced and the complaints were kept anonymous. The most common violation found was nurse tanks that are in service without the required ASME identification plate and that are not enrolled in the special permit program. As a reminder, DOT has issued a special permit, SP-13554, to TFI authorizing the continued use in commerce of nurse tanks without the required ASME identification plate so long as the nurse tank has been tested and passed an external visual inspection, a pressure test, and a thickness test. To address this issue, TFI worked with the Asmark Institute to establish the Nurse Tank Inspection Program (NTIP), a web-based program for implementation of the special permit. In most instances of violations, DOT stated that the manager of the facility had no knowledge of the existing NTIP program or, in some cases, knew about the program but had taken no action to participate.

Other issues found included bad welding by a non-R-stamp welder, poor maintenance of nurse tank chassis, particularly where the nurse tank was welded to the chassis, lack of recordkeeping on maintenance of nurse tanks and significant dents in the heads of some tanks.

DOT's main concern was with the lack of compliance with the special permit and the fact that many had not heard of the program. They expressed concern over the future of the special permit if the industry did not participate at a better rate. Penalties for non-compliance with the special permit range from \$15,000 for each tank out of compliance, up to \$50,000 per violation for a facility whose management was aware of the special permit but chose not to comply. DOT could put a facility out of service for noncompliance and stated that total disregard of the regulations could result in criminal indictments. They will be issuing enforcement actions against the facilities they visited that had blatant violations.

This is a serious situation. There has been extensive outreach regarding the special permit and the availability of the NTIP program and retailers need to take advantage of this program. DOT wants to work with our industry to improve this situation and TFI has assured DOT that we will work with the industry in this regard. DOT will be issuing a letter outlining the violations and we have been asked to distribute this letter throughout the industry.

We urge you to highlight this issue and the NTIP program with your members through your winter meeting or separate regional meetings. DOT has volunteered to work with us to provide speakers and TFI is available to you in this regard as well. The NTIP program can be accessed by clicking on NTIP from the homepage on TFI's Web-site at www.tfi.org.

We would like to thank **Jean Payne** of the Illinois Fertilizer and Chemical Association for hosting this important meeting and providing a report to TFI. TFI's Vice President of Member Services **Pam Guffain** is the contact for Special Permit issues. She can be reached by e-mail at pguffain@tfi.org.

The Thanksgiving Meal: Pricing, Possibilities, and Pesticides

The American Farm Bureau Federation (AFBF) has announced its 23rd annual informal price survey of classic Thanksgiving meal items. This year's assessment estimates the average cost of a 2008 family feast for 10 at \$44.61, which is a \$2.35 increase from last year's average of \$42.26. The AFBF survey "shopping list" includes turkey, bread stuffing, sweet potatoes, rolls and butter, peas, cranberries, carrots and celery, pumpkin pie with whipped cream, and coffee and milk.

Given what our industry contributes to a safe, affordable, and abundant food supply for Americans, what better time of year than this to highlight our contributions to the Thanksgiving cornucopia? After all, without crop protection chemicals, many of the staple items Americans take for granted on the Thanksgiving table would be scarce, if not impossible to come by. For instance:

- Without fungicides, there would be 44% less pecan pie, 39% less celery, and 68% fewer cranberries.
- There would be 30% fewer potatoes without insecticides, and 50% fewer carrots without herbicides.
- Turkeys are fed a balanced diet of corn and soybean meal, mixed with vitamins and minerals. On average, it takes 75-80 pounds of feed to raise a 30-pound turkey. Without herbicides, the U.S. would lose about 20-25% of the nation's soybean and corn crops, drastically lowering the turkey population as well.

This holiday season, remind your employees, your family, and your friends of the contributions of our industry to helping put the traditional foods on the table that help America celebrate this holiday. This article is courtesy of our friends at CropLife America.

New Passport Card OK for I-9

The Departments of State and Homeland Security announced that a new passport card was in full production. The new card provides a less expensive and more portable alternative to the traditional passport book, and will expedite document processing at United States land and sea ports-of-entry for U.S. citizens traveling to Canada, Mexico, the Caribbean, and Bermuda. The USCIS has also announced the new U.S. Passport Card may be used in the Employment Eligibility Verification form (I-9) process. The passport card is considered a "List A" document.

Digital Broadcasting: No need to dump your old TV

Confusion and panic seem to be surrounding the impending conversion from analog to digital television broadcasting. Beginning February 17, 2009, television stations will broadcast in digital only. But this does not mean that you'll have to throw out your older, analog TV. By simply attaching a digital-to-analog converter box, you can continue using your existing analog TV. Cable and satellite TV subscribers with analog TVs hooked up to their cable or satellite service won't be affected at all by the change. Also, analog sets will continue to work with gaming consoles, VCRs, DVD players, and similar products that you use now.

A coupon is available for the converter. To help consumers with the transition, the government established the Digital-to-Analog Converter Box Coupon Program. Every U.S. household is eligible to receive up to two coupons, worth \$40 each, toward the purchase of eligible digital-to-analog converter boxes. The coupons may only be used for eligible converter boxes sold at participating consumer electronics retailers, and the coupons must be used at the time of purchase. Manufacturers estimate that digital-to-analog converter boxes will sell from \$40 to \$70 each. This is a one-time cost. For more information on the Digital-to-Analog

Converter Box Coupon Program, visit www.ntia.doc.gov/dtvcoupon or call 1-888-3888-2009 (voice) or 1-877-530-2634 (TTY).

© **2008 Asmark Institute, Inc.** This information is believed to be reliable by the Asmark Institute, however, because of constantly changing government regulations, interpretations and applicability or the possibility of human, mechanical or computer error, the Asmark Institute does not guarantee the information as suitable for any particular purpose.