

2007 Fertilizer Outlook and Technology Conference

Legislative/Regulatory Update

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The Fertilizer Institute

Nourish. Replenish. Grow.

Fertilizer Issues

- Chemical Facility Security
- Ammonium Nitrate
- Methamphetamine
- Transportation
- EPA
- Energy
- Farm Bill
- Elections



Chemical Facility Anti-Terrorism Legislation

- S. 2145 and H.R. 5694, Chemical Facility Anti-Terrorism Act
- S. 2145 is currently on hold by Sen. James Inhofe (R-Okla.), chairman of the Environment and Public Works Committee because of references to inherently safer technology (IST)
- H.R. 5695 was amended in committee mark-up to include IST

Chemical Security Legislation

- H.R. 5441, Homeland Security Appropriations
- Included chemical facility security requirements
- Requires the Department of Homeland Security to issue interim final rules for highest risk facilities
- Requirements have a 3-year sunset
- No IST, implicit preemption, performance based



Ammonium Nitrate Legislation

- Bills introduced in 2005 in both the House and Senate
- House bill was reported from full Homeland Security Committee
- No action in the Senate
- Unlikely that bills will advance in lame duck congressional session

Methamphetamine

- Congress passed ephedrine controls in 2005
- Iowa research on calcium nitrate (CN9)
- Fertilizer Methamphetamine Task Force meets to review research on calcium nitrate
- CN9 only tested for use in nurse tanks
- Strictly voluntary
- Task force will develop a set of Q&A's as the result of recent meeting in Iowa



Transportation

- Pressure on Toxic-by-Inhalation
- Railroads state liability is too great
- Railroads want out of common carrier obligation or liability protection
- Railroads calling for tank cars of anhydrous ammonia and chlorine to be redesigned
- Federal Railroad Administration Section 333 conference to look at product swaps/rerouting



Environmental Protection Agency

- TFI successful in changes to nitrous oxide reporting rule under CERCLA
- EPA raised the threshold quantity for reporting certain airborne releases of nitrogen oxide and nitrogen dioxide from 10 lbs to 1,000 lbs
- New standards apply not only to nitric acid producers but also for flare operators to control emissions of ammonia



Environmental Protection Agency

- Also applies to facilities that burn syn gas during startup, shutdown and upsets who do not have permit allowables for NO_x emissions
- TFI specifically asked, and EPA granted, that the new threshold apply to releases from accidents or equipment as well as ammonia combustion



Occupational Safety and Health Administration

- September 2006 Advance Notice of Proposed Rulemaking by OSHA
- OSHA, other Federal agencies and stakeholders have participated in long-term international negotiations to develop a Globally Harmonized System of Classification and Labeling of Chemicals (GHS)



Occupational Safety and Health Administration

- GHS has been adopted by the United Nations
- There is an international goal for as many countries as possible to implement the GHS by 2008
- Includes harmonized provisions for classification of chemicals for their health, physical and environmental effects
- Includes provisions for labels on containers and material safety data sheets



Occupational Safety and Health Administration

- GHS includes three standard label elements:
 - Symbols or hazard pictograms
 - Signal words
 - Hazard statements
- These three elements have all been standardized and assigned to specific hazard categories/classes



Occupational Safety and Health Administration

- “Acutely toxic” under the GHS would require the transportation label to bear a “skull and crossbones” pictogram
- TFI will submit comments to OSHA arguing against the “skull and crossbones” pictogram given ammonia’s role as a nutrient



Energy

- H.R. 4761, Deep Ocean Energy and Resources Act, passed in the House
- S. 3711, Gulf of Mexico Energy Security Act, passed in the Senate
- Legislation is now in conference with no compromise yet
- If Republicans retain control there is a chance of an agreement in a lame duck session
- If Democrats win control – little chance



2007 Farm Bill

- Who will be the Agriculture Committee chairman?
- What will ag budget look like?
- Will more be done to increase ethanol production?
 - more than 4 billion gallons of ethanol produced in 2005
 - Energy Policy Act of 2005 will require 7.5 billion gallons by 2012
 - Trends suggest more than 16 million acres of corn needed by 2012 to met Energy Policy Act goals



2007 Farm Bill

- Will acres come out of the Conservation Reserve Program for ethanol?
 - 35.2 million acres enrolled as of June 2005
 - 16 million acres due to expire Sept. 30, 2007
- Will there be funding for nutrient management planning?



2006 Elections

- Predicted to be the most expensive in history – approximately \$2.6 billion
- If the Democrats gain control – for the first time in the last five elections – we may see a push for energy and environmental legislation that could impose stringent new requirements on businesses
- Climate change, superfund and security could be at the top of the list



2006 Elections

- Democrats need 15 seats in the House for control
- 33 senators are up for reelection – Democrats need 6 seats for control

