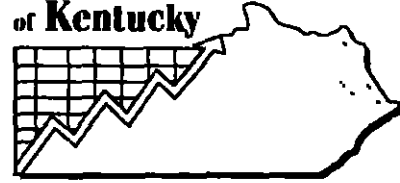


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**AgriBusiness Association
of Kentucky**



July 9, 2008

Surface Transportation Board
Attn: STB Ex Parte No 677 (Sub-No 1)
395 F. Street, S.W.
Washington, D.C. 20423-0001

512 Capitol Ave
Frankfort, KY 40601
502-226-1122 office
502-875-2686 fax
<http://www.kyagbusiness.org>

RE Docket EP 677 I

Dear Sir/Madam:

The AgriBusiness Association of Kentucky submits these comments in response to the notice of public hearing in Ex Parte 677 (Sub-No 1), *Common Carrier Obligation of Railroads – Transportation of Hazardous Materials*, July 22

The AgriBusiness Association of Kentucky (ABAK) is an organization established to provide a strong voice in support of Kentucky agriculture. Its members are in the business of supplying "inputs" for agriculture production throughout the state. ABAK members are primarily engaged in the sale and manufacture of fertilizer, agricultural chemicals, seeds, feed and equipment, as well as the provision of related services, required to sustain and grow Kentucky's agricultural economy.

We have been following the debate in Congress and at the Surface Transportation Board (STB) regarding the railroads' concern over the liability risk associated with rail transportation of toxic-by-inhalation (TIH) materials. Anhydrous ammonia, a TIH material, is a vital and essential plant nutrient that is critical to the nation's food supply. Rail is a safe and necessary method for transporting this critical agricultural product.

The railroad's common carrier obligation, codified by Congress in the Interstate Commerce Act in 1967 and reaffirmed by Congress in the Staggers Act, clearly shows the intent of Congress that railroads are not able to pick and choose which shippers to serve and which commodities to transport based purely upon their self interest. While the STB may have an advisory role in making recommendations to Congress on railroad common carrier obligation, only Congress has the authority to change this obligation.

Anhydrous ammonia is an essential agricultural nutrient used to grow our nation's food supply. With increased concern over escalating food prices, as well as food shortages around the world, it is critical that American farmers have anhydrous ammonia when and where they need it. Anhydrous ammonia is the least costly and most effective source of nitrogen fertilizer for U.S. farmers. In addition to its direct application as a fertilizer, anhydrous ammonia is the primary ingredient in all other nitrogen fertilizers and is also used to produce phosphate fertilizers.

It is not feasible to think that we could "turn a switch" and provide this essential product to Kentucky farmers without the ability to ship by rail from production facilities to farm supply dealer locations. Today's infrastructure simply would not be able to handle a shift of anhydrous ammonia away from rail. Rail is often the only alternative to trucks for the overland transportation of anhydrous ammonia. One tank car can transport as much anhydrous ammonia as four trucks. Rail transportation is not only more efficient than trucks, it takes a highly hazardous commodity off our nation's highways where the potential for accidents and public release are many times greater.

In response to the STB's request for potential policy solutions to the liability issue, we support the solution proposed by The Fertilizer Institute (TFI), our national trade association in Washington, D.C. TFI has proposed a business solution to the railroads regarding liability concerns which we believe is a more appropriate method to address this issue. We fully support TFI's comments to the STB and their efforts in this regard.

Sincerely,

Tom Griffin
Executive Director